



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

### Twelfth session

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Item 5 of the provisional agenda

**Consideration of reports submitted by States parties  
under article 35 of the Convention**

## List of issues in relation to the initial report of Ecuador

### Addition

## Replies by Ecuador to the list of issues\*

[Date received: 21 July 2014]

- 1. Please indicate the most significant changes made to the Organic Act on Disabilities published on 25 September 2012, which repealed the Disabilities Act mentioned in the State party report.**

1.1 The Organic Act on Disabilities<sup>1</sup> has higher legal status than the former Disabilities Act, since article 133<sup>2</sup> of the Constitution of the Republic of Ecuador provides that organic laws govern the organization and functioning of the institutions established by the Constitution, constitutional rights and guarantees, and the organization, competencies, powers and functioning of the decentralized autonomous governments. The same article establishes that ordinary laws cannot amend or take precedence over an organic law. Furthermore, in accordance with article 425<sup>3</sup> of the Constitution, constitutional provisions

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\* The present document is issued without formal editing.

<sup>1</sup> [http://www.grupotvcable.com.ec/apps/files/2012-09-25-Ley\\_Organica\\_de\\_Discapacidades.pdf](http://www.grupotvcable.com.ec/apps/files/2012-09-25-Ley_Organica_de_Discapacidades.pdf).

<sup>2</sup> Article 133: "Laws shall be organic and ordinary. The following shall be organic laws: 1. Those governing the organization and functioning of the institutions established by the Constitution. 2. Those governing the exercise of constitutional rights and guarantees. 3. Those governing the organization, competences, powers, and functioning of decentralized autonomous governments. 4. Those related to the system governing political parties and the electoral system. The issuance, reform, repeal and interpretation, generally of a mandatory nature, of organic laws shall require an absolute majority of the members of the National Assembly. The others shall be ordinary laws, which cannot amend or take precedence over an organic law."

<sup>3</sup> Article 425: "The order of precedence for the application of legal provisions shall be as follows: the Constitution; international treaties and conventions; organic laws; ordinary laws; regional regulations and district ordinances; decrees and regulations; ordinances; agreements and resolutions; and other

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and international instruments and agreements assume priority in the regulatory order, which strengthens protection of the rights of persons with disabilities.

1.2 The Act guarantees the participation and full and effective inclusion of persons with disabilities and their families.

1.3 It establishes ten fundamental principles guaranteeing and strengthening application of the rights in question: non-discrimination; *in dubio pro homine*; equality of opportunity; collective social responsibility; speed and efficiency; interculturality; participation and inclusion; accessibility; protection of children and adolescents with disabilities; and priority needs. In keeping with these principles, equality is conceived not simply as providing equal treatment to persons, groups or sectors living in a state of inequality but also as recognizing the contributions, potential and specific needs of each of them, with a view to overcoming the disadvantaged circumstances in which they live and furthering the realization of their full potential, individually and collectively.

1.4 It places the emphasis on a definition of disability in keeping with the Convention on the Rights of Persons with Disabilities, according to which “a person is to be considered as having a disability who, as a result of one or more physical, mental, intellectual or sensory defects, independently of their cause, is permanently restricted in his or her biological, psychological and associative abilities to perform one or more essential activities of everyday life, in a proportion equivalent to a forty per cent (40%) disability, duly certified by the national health authority”.

1.5 It embodies the definition of a person with deficiencies or a disabling condition as someone who shows a temporary reduction or loss of one of his or her physical, sensory or intellectual capacities, within the meaning of the Act, and whose condition, despite clinical or surgical treatment, will predictably evolve unfavourably over a period of more than one year, without it becoming permanent; and who, if the deficiency were to persist beyond this point, would only then be recognized as a person with disabilities and receive the assistance afforded by the instrument as a whole.

1.6 The Act provides for assistance to be granted not only to persons with disabilities of Ecuadorian or foreign nationality residing in Ecuador but also to their relatives up to the fourth degree of consanguinity and the second degree of affinity, to spouses or stable partners and to legal representatives having a person with disabilities under their responsibility, in their care and/or economically dependent on them; to public institutions and private non-profit entities caring for persons with disabilities; and to Ecuadorians with disabilities living abroad.

1.7 To benefit from the legal provisions under the Act, it is laid down that the only valid document certifying classification and registration as a person with disabilities is the identity or citizenship card, which is what enables persons with disabilities to claim the rights and benefits granted under the Act. It is likewise stipulated that this provision will become fully applicable once the relevant data linkages have been established by the Directorate of Civil Registration, Identification and Certification<sup>4</sup> in accordance with article

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actions and decisions taken by public authorities. In the event of any conflict between levels of precedence, the Constitutional Court, judges, administrative authorities and public servants, it shall be resolved by application of the provision with a higher order of precedence. The regulatory order of precedence shall take into account, as appropriate, the principle of jurisdiction, in particular the entitlement of decentralized autonomous governments to exclusive jurisdiction.”

<sup>4</sup> The Directorate of Civil Registration, Identification and Certification is the body responsible for identifying the inhabitants of Ecuador as a whole, registering their civil status, issuing secure and reliable documents and ensuring the proper custody and management of the information concerned. <http://www.registrocivil.gob.ec/?p=1356>.

11 of the Organic Act on Disabilities.<sup>5</sup> The identity document will include the disabled status of the person and the type, level and percentage of disability. In accordance with the disability regulations, this document is to be issued within a maximum of one year following the adoption of the law on the establishment of the data linkages, in keeping with article 11 of the Organic Act on Disabilities.<sup>6</sup> Meanwhile, the disability card will remain fully valid for five years, namely until 25 September 2017, when the citizenship or identity card will become the sole requirement for exercise of the right.

1.8 The Act establishes that the State, through its agencies and entities, recognizes and guarantees persons with disabilities full exercise of the rights established in the Constitution of the Republic and in international treaties and instruments. It likewise provides for direct implementation of the Act by administrative or judicial officials, *ex officio* or *ex parte*, and by private individuals or legal persons.

1.9 This national norm establishes as a fundamental principle the implementation of affirmative action, which is defined as “any necessary and proportionate measure that must be applied when a person with disabilities is clearly subject to inequality in the sphere in which his or her rights are enjoyed and exercised, the said measure to have a gender, generational and intercultural focus”. The State, through the relevant bodies, will adopt affirmative action measures when formulating and implementing the public policies necessary to ensure full exercise of the rights of persons with disabilities in situations of disadvantage.

1.10 The National Council on Disabilities<sup>7</sup> (CONADIS) has promoted a nationwide campaign to publicize all the affirmative action measures contained in the Organic Act on Disabilities, with the aim of ensuring recognition of the rights and guarantees of persons with disabilities. This campaign entitled Mainstreaming and Observance of Government Policies on Disability will involve dissemination activities in the 221 cantons of the country, with an investment of US\$ 4,692,000 for the period 2014–2017.

1.11 The Act confirms that health and health service rights should be exercised on equal terms by all those requiring them and accordingly guarantees access by persons with disabilities to life insurance and/or public and private health insurance as well as prescribing penalties for failure to observe those rights.

1.12 Universal access to health services for the family has been achieved. In 2013, \$ 450 million were invested in infrastructures, which included the construction of hospitals,

<sup>5</sup> Section 3 (On the accreditation of persons with disabilities), art. 11 (Accreditation procedure): “Once classification has taken place and persons with disabilities have been duly registered by the relevant unit of the National Health System, the health authorities shall transmit this information immediately to the Directorate of Civil Registration, Identification and Certification so that the status, type, level and percentage of disability can be entered in the citizenship document. Accredited persons with disabilities who are resident abroad may, if they wish, apply to return to the country, where they will receive financial and social support in accordance with the relevant regulations.”

<sup>6</sup> Section 3 (On the accreditation of persons with disabilities), art. 11 (Accreditation procedure): “Once classification has taken place and persons with disabilities have been duly registered by the relevant unit of the National Health System, the health authorities shall transmit this information immediately to the Directorate of Civil Registration, Identification and Certification so that the status, type, level and percentage of disability can be entered in the citizenship document. Accredited persons with disabilities who are resident abroad can, if they wish, apply to return to the country, where they will receive financial and social support in accordance with the relevant regulations.”

<sup>7</sup> On 10 August 1992, the publication of Law 180 in the Official Register No. 996 drew the attention of Ministries to the rights of persons with disabilities and established the National Council on Disabilities (CONADIS) as an autonomous body responsible for the question nationally and with a legal mandate to prescribe policies, coordinate public and private measures and promote research on disability. <http://www.consejodiscapacidades.gob.ec/>.

health centres and mobile units. Improved hospital infrastructures represent a health challenge not only in Ecuador but also throughout Latin America.

1.13 With regard to the right to education, the Act provides that the State will endeavour to ensure that persons with disabilities can access, pursue and complete their studies within the national and higher education systems in order to obtain education and training by attending classes in a specialized educational establishment or in a regular educational setting, as appropriate.

1.14 Measures to promote educational inclusion are also defined. These are to be implemented by the national education authority and will be aimed at promoting the inclusion of students with special educational needs requiring technical, technological and human support, such as specialized staff on a temporary or permanent basis and/or modification of the curriculum, physical accessibility and communication standards and learning facilities within a regular educational establishment.

1.15 These provisions guarantee the right of access by persons with disabilities to the regular, specialized and higher education systems, both public and private, enabling them to acquire education and training on an equal basis and without discrimination.

1.16 The Act establishes that persons with disabilities living in areas that lack a public educational establishment with adequate services to meet their special educational needs may receive scholarships and loans from the Ecuadorian Institute for Educational Loans to enable them to attend a private or State-funded religious educational establishment offering services of the requisite standard.

1.17 Furthermore, the National Secretariat of Higher Education, Science, Technology and Innovation<sup>8</sup> will supervise compliance by public and private institutions of higher education in the awarding of graduate and postgraduate scholarships for full-time, part-time and distance studies. Gender equality criteria will be applied in all institutions of higher education to ensure that knowledge of the topic of disabilities is mainstreamed in the curricula of the various academic courses and programmes.

1.18 On the right to work, persons with disabilities, impairments or disabling conditions are entitled to equal access to paid work and not to be discriminated against in employment practices, including procedures for job application, selection, recruitment, training and remuneration and other conditions applicable in the public and private sectors.

1.19 Similarly, the Act provides that, in those cases where persons find it impossible to gain access to the labour market as a result of severe disability, a member of their nuclear family to the fourth degree of consanguinity and the second degree of affinity, spouses or stable partners responsible for their care can form part of the prescribed percentage of persons with disabilities in the workforce, up to a maximum of 50 per cent. In the same way, the parents of an underage person with disabilities can register as a substitute employee, irrespective of the percentage of disability.

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<sup>8</sup> The National Secretariat of Higher Education, Science, Technology and Innovation is the public body responsible for carrying out national planning in a participatory, inclusive and coordinated manner in pursuit of the goal of Good Living. Its function is to administer and coordinate the National Decentralized System of Participatory Planning, as a means to the comprehensive development of the country at the sectoral and territorial level; to establish objectives and political strategies, based on information, research, training, monitoring and evaluation processes; and to guide public investment and promote democratization of the State through active citizen participation that contributes to transparent and efficient public management. <http://www.planificacion.gob.ec/>.

1.20 The Act provides that persons with disabilities are entitled to leave from work for treatment and rehabilitation, in both the public and private sectors, in accordance with a duly certified medical prescription.

1.21 It also proposes that public lending bodies should reserve a preferential line of credit for individual, group and/or family ventures by persons with disabilities. By way of example, the Bank of the Ecuadorian Institute of Social Security will grant unsecured and mortgage loans, reducing by 50 per cent the duration of the contributions necessary to have access to these loans, and in this case the contributions are not required to be continuous.

1.22 In addition, the Act provides that the bodies responsible for road traffic, transport and security in the different administrative districts, subject to the granting of the relevant operating and circulation permits, will monitor and supervise obligatory compliance with the transport standards for persons with disabilities issued by the Ecuadorian Standards Institute (INEN)<sup>9</sup> and will introduce measures to guarantee access by persons with disabilities to transport facilities and ensure their safety in the use of such facilities, penalizing non-compliance in this regard. Similarly, the agencies responsible for granting operating licences to taxi organizations will require that a percentage of their units is technically equipped to transport persons with disabilities suffering from reduced mobility, in keeping with the needs of the different administrative districts and in accordance with the implementing regulations of this Act, article 13 of which provides that the said proportion “cannot be less than 2 per cent or at least one unit per taxi cooperative or company, depending on population density”.

1.23 With reference to preferential rates, exemption from customs duties and the tax regime, the Act provides that, in establishing the taxable income threshold for the payment of the annual vehicle ownership and environmental pollution tax in the case of vehicles intended for the use and transport of persons with disabilities, consideration will be given to a special reduction of US\$ 8,000. When a surplus remains after this reduction has been made, a further special reduction of 50 per cent of this amount will be granted. In addition, persons with disabilities will be exempted from paying the vehicle environmental pollution tax.

1.24 The import and purchase of vehicles, including nationally produced ones, intended for the private or collective use or benefit of persons with disabilities are exempt from the payment of foreign trade taxes, value-added taxes and special consumption taxes.

1.25 Persons with disabilities and/or natural and legal persons responsible in law for their care and protection are exempted from payment of fifty per cent (50%) of the property tax. This exemption is applicable to a single property with a maximum value of five hundred (500) times the basic minimum (monthly) wage for private-sector workers, i.e. equivalent to US\$ 170,000.

1.26 Persons with disabilities are exonerated from the payment of income tax on an amount equivalent to twice the zero-rated basic tax threshold (US\$ 20,820 in 2014).

1.27 Persons with disabilities are exempt from payment of taxes and/or fees for notary, consular, civil registry, identification and registration services as well as for obtaining their passport.

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<sup>9</sup> The Ecuadorian Standards Institute is the national technical body, a central component of the Ecuadorian Quality System, responsible for standard setting, technical regulation and meteorology in the country. It helps to guarantee the observance of citizens’ rights relating to security, the protection of life and human, animal and plant health, preservation of the environment, consumer protection, promotion of the culture of quality, and the improvement of productivity and competitiveness in Ecuadorian society. <http://www.normalizacion.gob.ec/>.

1.28 Persons with disabilities are entitled to reimbursement of the value-added tax paid on goods and services acquired for their personal use and consumption, up to an amount of US \$3,744 annually.

1.29 Reductions are made for basic services for the supply of electricity, drinking water, sewerage, Internet and fixed and mobile telephone services paid in the name of users with disabilities or of a natural or legal person acting as the legal representative on a non-profit basis of a person with disabilities. These reductions are as follows.

1.30 The drinking water and sewerage service will make a reduction of fifty per cent (50%) in the value of the monthly consumption up to ten (10) cubic metres.

1.31 The electricity supply service will make a fifty per cent (50%) reduction in the value of the monthly consumption up to a maximum of fifty per cent (50%) of the basic minimum wage for private-sector workers.

1.32 The fixed telephone service will be charged at preferential rates in accordance with the regulation in force.

1.33 The mobile telephone service will make a reduction of fifty per cent (50%) in the value of the monthly consumption up to a maximum of three hundred (300) network minutes, or the total or partial equivalent in text messages.

1.34 The value-added tax on the fixed broadband Internet service will make a reduction of fifty per cent (50%) in the value of the monthly consumption under the business scheme.

1.35 With regard to copyright, persons with disabilities are exempt from obtaining the authorization of the holder of the copyright or neighbouring rights and from paying any remuneration to the copyright holder for adapting, translating and distributing protected works and materials as well as for communicating and making such works or materials available to the public by interactive means, whether wired or wireless, digital or analogue, or for producing and supplying them in accessible formats.

1.36 Consistent with the right of equality before the law enshrined in the Constitution, the State guarantees access to voluntary social security by persons with disabilities, without any restriction relating to their disability or stipulation regarding prior medical examination or age.

1.37 In accordance with article 156 of the Constitution,<sup>10</sup> which provides for the creation of National Equality Councils responsible for ensuring the full observance and exercise of the rights enshrined in the Constitution and in international human rights instruments, the Act establishes the National Council on Disability Equality as an independent institution under public law, with legal status and with its own assets, responsible for the drafting, mainstreaming, observance, monitoring and evaluation of public policies.

1.38 With regard to the protection, safeguarding and enforcement of rights, the Act assigns responsibility to the Office of the Ombudsman,<sup>11</sup> within its sphere of competence,

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<sup>10</sup> Section 2 (National Equality Councils), art. 156: "The National Equality Councils are the bodies responsible for ensuring the full observance and exercise of the rights enshrined in the Constitution and in international human rights instruments. The Councils shall have responsibility for the formulation, mainstreaming, enforcement, follow-up and evaluation of public policies dealing with gender, ethnic, generational, intercultural, disability and human mobility issues, in accordance with the law."

<sup>11</sup> The Office of the Ombudsman, headed by the Ombudsman, is an institution that was included in the apparatus of the Ecuadorian State under article 96 of the Constitution, in force since August 1998. It is currently governed by article 214 of the new Constitution of the Republic of Ecuador (in force since October 2008), which provides that "The Office is a statutory body with national jurisdiction,

for monitoring and supervising observance of the rights of persons with disabilities, impairments or disabling conditions. The Office can issue mandatory protection measures in the public and private sector and can punish failure to observe them. It can also call on the competent authorities to judge and punish breaches of the law, without prejudice to any remedies relating to possible civil, administrative and criminal liability. Recourse may be had to summary jurisdiction for the enforcement of financial penalties.

**2. Please provide more information on the concept of “severity of such limitations” used to determine whether a person is recognized as a person with disabilities and has access to his or her rights. Who makes the determination regarding limitations and what methodology is used?**

2.1 In accordance with the Organic Act on Disabilities, and consistent with the provisions of the Convention, any person classified as disabled can have access to the various affirmative action measures and can assert his or her rights.

2.2 In this connection, persons with disabilities in Ecuador obtain legal recognition of their condition through a disability classification procedure implemented by the Ministry of Public Health,<sup>12</sup> as the national health authority, on the basis of the Unified Disability Classification System, which operates in accordance with the World Health Organization International Classification of Impairments, Disabilities and Handicaps (ICIDH).

2.3 The Unified Disability Classification System has adopted as its instrument of application the Disability Assessment Manual employed by the Institute of Migration and Social Affairs of Spain, which determines the indicators for measuring and assessing the percentage of disability. Based on the definition of disability adopted by WHO, namely “the restriction or absence of ability to carry out an activity in the manner or within the margin considered normal for a human being”, this instrument enables the degree of disability to be assessed and identified according to the severity of a person’s limitations in performing everyday activities. The “severity of limitations” thus refers to the level of difficulty that a person has in performing, independently and on equal terms with other people, everyday and self-care activities of the kind involved in work, education, moving around, hygiene, dressing and eating.

2.4 The Ministry of Public Health is responsible for applying the indicators for assessing and measuring the percentage of disability via disability classification units staffed by a team of three medical, psychological and social work professionals trained and authorized to perform this task, who issue a joint decision. The disability classification is established by applying the medical measurement tables, which must show a disability level of at least 25 per cent, i.e. must identify a minimum restriction of 25 per cent in the performance of everyday activities, and by subsequently factoring in the relevant social environment indices, up to a maximum of 15 per cent of the total percentage.

2.5 It should be noted that the Ministry of Public Health is currently working on the construction of a new disability classification system based on measurement factors adapted to the current Ecuadorian environment and national context.

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legal personality and administrative and financial independence. It has a decentralized structure, with delegates in each province and abroad”. <http://www.dpe.gob.ec>.

<sup>12</sup> The Ministry of Public Health is responsible for guiding, regulating, planning, coordinating, controlling and managing public health in Ecuador, through activities of governance, monitoring and control, and for ensuring the right to health through the provision of individual treatment, disease prevention, health and equality promotion, health governance, scientific and technological research and development and coordination among the actors in the system, with the aim of guaranteeing the right to health. <http://www.salud.gob.ec/>.

2.6 In the sporting field, for example, the methodology adopted to promote the participation of persons with disabilities involves a process of functional classification, which is a basic feature of adaptive and/or Paralympic sport.

2.7 This classification is based on international guidelines endorsed by the International Paralympic Committee (IPC).

2.8 Ecuador currently has 19 legally constituted adaptive and/or Paralympic sports clubs catering for persons with physical, visual, hearing and intellectual disabilities and organized according to type of disability:

- Eight adaptive and/or Paralympic sports clubs for persons with physical disabilities;
- Three adaptive and/or Paralympic sports clubs for persons with intellectual disabilities;
- Six adaptive and/or Paralympic sports clubs for persons with visual impairments;
- Two adaptive sports clubs for persons with hearing or speech difficulties.

2.9 These clubs have a combined membership of some 437 sportsmen and women, including one per cent of Afro-Ecuadorian children with various types of disability.

**3. Please indicate the steps to be taken by Ecuador in the short, medium and long term in order to bring its national legislation into line with the Convention, aside from the aforementioned Organic Act on Disabilities.**

3.1 The National Assembly is currently examining draft laws being drawn up with a view to mainstreaming the promotion and protection of the rights and guarantees of persons with disabilities. The criteria being applied to give effect to harmonization measures, adapted to the specific character of each legal norm, are focused on compliance with constitutional provisions, provisions of the Convention and international human rights law. Most of the following draft texts are currently under examination:

- Equality Councils Act;
- Draft amendments to the Organic Land Transport, Transit and Highway Safety Act;
- Organic Act on Cultures;
- Amendments to the Organic Act on an Economy of Solidarity with the People and a Financial Sector of Solidarity with the People (LOEPS);
- Human Mobility Act;
- Water Resources Act;
- Organic General Procedural Code;
- Telecommunications and Postal Services Act;
- Electricity Sector Act;
- Land and Territories Act;
- Land Planning and Management and Soil Use Act;
- Office of the Ombudsman Act;
- Organic Act on the Special Regime Governing the Conservation and Sustainable Development of the Province of Galápagos – LOREG;
- Act on the Facilitation of Exports and Water Transport;
- Act on the Social Economy of Knowledge;

- Health Code;
- Labour and Labour Relations Code;
- Organic Environmental Code;
- Organic Social Security Act.

3.2 Attention should also be drawn to the initiative proposed by the National Assembly, entitled Towards an Enterprising and Innovative Ecuador in 2020, under which a group of persons with disabilities is considered part of the strategy to make Ecuador an example of a change in productivity through enterprise. The Technical Secretariat for Disability publicized this project, sponsored by the Alliance for Enterprise and Innovation, in the context of the Commission on Economic, Productive and Micro-Enterprise Development of the National Assembly. The Corporación Andina de Fomento (CAF), the Inter-American Development Bank (IDB), the United Nations Conference on Trade and Development (UNCTAD), public and private institutions, representatives of the academic world and entrepreneurs participated in this initiative. The project is an example of the proactive measures adopted by Ecuador to fulfil its commitment to move towards the full exercise of economic, social and cultural rights.

**4. What is done to ensure the managerial autonomy and independence of organizations of persons with disabilities to enable them to provide information freely to the treaty bodies?**

4.1 The State supports the management of associative movements with the aim of enabling them to increase in the medium and long term their managerial capacity to carry out organizational development projects and implement productive projects of benefit to their members.

4.2 Citizen observatories play a significant role in evaluating from the standpoint of civil society the work of the lead Ministries with regard to implementing affirmative action measures on behalf of persons with disabilities and their families. The independence of associations is guaranteed since they are increasingly independent in their fund-raising activities.

4.3 The Ministry of Sport, in its commitment to ensure and promote full exercise of the rights of persons with disabilities without any form of discrimination, has made great progress with regard to the structure and organization of the Ecuadorian system of adaptive and/or Paralympic sport, through the participation of individuals who can count on the economic assistance of legal entities and/or participation in their governing bodies. Efforts are focused in particular on the establishment of adaptive and/or Paralympic sports clubs, which are an expression in the sporting field of the equality to which all human beings are entitled, regardless of their psychomotor and intellectual capacities.

4.4 In this way, autonomy in the management and administration of sport is guaranteed, based on respect for difference and the acceptance of persons with disabilities as part of the diversity of the human condition.

4.5 The plenary of the National Council on Disability Equality consists of an equal number of representatives of the State and civil society.

**5. Please indicate whether denial of reasonable accommodation is considered a form of discrimination in the State party. Please also indicate the legal actions — apart from criminal proceedings — available to persons with disabilities if they consider that they have been discriminated against, the time any such proceedings take and the sanctions available to punish those responsible for discriminatory acts.**

5.1 Ecuadorian legislation does not specifically state that denial of reasonable accommodation is a form of discrimination. However, what has been established as a right within the legal framework, and is expanding into a principle of non-discrimination, is the fact of categorizing as discriminatory acts that promote distinctions, exclusion, restriction or preference directed at persons with disabilities, or seek to nullify or impair recognition, enjoyment or exercise of fundamental human rights and freedoms.

5.2 Through the implementation of the affirmative action measures prescribed in the Organic Act on Disabilities, a mechanism is being developed to counter and curb this kind of discrimination and inequality.

5.3 Article 11.2<sup>13</sup> of the Constitution of the Republic establishes that the exercise of rights shall be governed by the principles of equality of rights and opportunities and the absence of discrimination. It underlines that the State shall adopt affirmative action measures that promote genuine equality by benefiting rights-holders in situations of inequality.

5.4 By stating that “no one shall be discriminated against for reasons of [...] disability”, it highlights the duty of the State to safeguard against any act that “... might be aimed at or result in the diminishment or annulment of recognition, enjoyment or exercise of rights”, while punishing any form of discrimination.

5.5 To this end, the Organic Act on Disabilities provides for the protection, defence and enforceability of rights, making the Ombudsman’s Office responsible, within its sphere of competence, for monitoring and ensuring compliance with the rights of persons with disabilities, impairments or disabling conditions. It may impose mandatory protection measures in the public and private sectors and punish failure to observe them; and it may request the competent authorities to prosecute and punish offences under the law, without prejudice to any reparation resulting from civil, administrative or criminal liability. Recourse may be had to court orders for the enforcement of financial penalties.

5.6 The legal remedies available to persons with disabilities or their family members can thus be pursued under the provisions of the Organic Act on Disabilities itself or under the Organic Act on the Ombudsman’s Office, which likewise prescribes a procedural time limit.

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<sup>13</sup> Title II (Rights), chap. 1 (Principles governing the application of rights), art. 11: “The exercise of rights shall be governed by the following principles: 1. Rights can be exercised, promoted and enforced individually or collectively before the competent authorities, which shall ensure that they are observed. 2. All persons are equal and shall enjoy the same rights, duties and opportunities. No one shall be discriminated against on grounds of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, legal record, socio-economic condition, migratory status, sexual orientation, health status, HIV carrier status, disability, physical difference or any other distinguishing feature, whether personal or collective, temporary or permanent, which might be aimed at or result in the diminishment or annulment of recognition, enjoyment or exercise of rights. All forms of discrimination are punishable by law. The State shall adopt affirmative action measures that promote genuine equality for rights-holders in situations of inequality.”

5.7 This is the case with the provision in article 102<sup>14</sup> of the Organic Act on Disabilities, concerning jurisdiction and competence, according to which the Ombudsman's Office is the administrative authority with responsibility for determining the existence of a violation, or threat of violation, of the constitutional rights of persons with disabilities.

5.8 Article 111<sup>15</sup> of the same Act provides that the duration of the administrative procedures before the administrative body may not exceed thirty (30) days; and article 112<sup>16</sup> specifies the sanctions applicable to an administrative authority that wrongly refuses to investigate an administrative complaint. These correspond to a fine of between one (1) and three (3) times the basic minimum wage for private-sector workers, and a fine of fifty (50) dollars for each day's delay.

5.9 Another legal institution to which persons with disabilities can have recourse is action for injunction, the purpose of which is to provide direct and effective protection of the rights recognized in the Constitution. Such an action may also be lodged when constitutional rights have been violated by the actions or omissions of any non-judicial public authority; against public policies when they entail deprivation of the exercise or enjoyment of constitutional rights; and when the violation is committed by a private individual, if the violation of the right causes severe prejudice, if he or she is providing improper State-regulated services or acting on a representative or concessionary basis, or if the person affected is in a situation of subordination, defencelessness or discrimination. The foregoing is laid down in article 88<sup>17</sup> of the Constitution and in the Organic Act on Jurisdictional Guarantees and Constitutional Oversight, article 39 of which concerns the direct appeal for protection of the rights recognized in the Constitution and international human rights treaties, while article 41<sup>18</sup> specifies the origin and applicability of the action for injunction.

<sup>14</sup> Title IV (Offences, procedures and penalties), chap. 1 (Administrative procedure), art. 102 (Jurisdiction and competence): "The Ombudsman, as the competent administrative authority for hearing this type of procedure, which involves deciding on the existence of a violation, or threat of violation, of the constitutional rights of persons with disabilities, impairments or a disabling condition, shall follow the administrative procedures described in this chapter."

<sup>15</sup> Art. 111 (Maximum duration of administrative procedures): "In no case shall the procedures before the administrative body last longer than thirty (30) days."

<sup>16</sup> Art. 112 (Sanctions for denial of justice): "When the competent administrative authority wrongly refuses to investigate an administrative appeal submitted in accordance with the relevant rules, the responsible persons shall be punished with a fine of one (1) to three (3) times the basic minimum wage for private-sector workers. When the duration of the procedure exceeds the maximum stipulated time, the persons responsible for the delay shall be punished with a fine of fifty (50) dollars for each day's delay."

<sup>17</sup> Action for injunction, art. 88: "Action for injunction is intended to provide direct and effective protection of the rights recognized in the Constitution and may be lodged when constitutional rights have been violated by the actions or omissions of any non-judicial public authority; against public policies when they entail deprivation of the exercise or enjoyment of constitutional rights; and when the violation is committed by a private individual, if the violation of the right causes severe prejudice, if he or she is providing inappropriate public services or acting on a delegation or concession basis, or if the person affected is in a situation of subordination, defencelessness or discrimination."

<sup>18</sup> Art. 41: "Admissibility and *locus standi*. Action for injunction is admissible against: 1. Actions or omissions by a non-judicial public authority that violates or has violated, impairs, diminishes or annuls the enjoyment or exercise of rights. 2. National or local public policies that entail deprivation of the exercise or enjoyment of rights and guarantees. 3. Acts or omissions by public service providers that violate rights and guarantees. 4. Acts or omissions by private-sector individuals or legal persons in at least one of the following circumstances: (a) they involve the provision of State-regulated or public-interest services; (b) they involve public services provided by delegation or concession; (c) they cause severe prejudice; (d) the person affected is in a state of subordination or

5.10 The procedure established for these cases is governed by article 31,<sup>19</sup> which specifies that the procedure must be rapid and effective at every stage.

5.11 Article 32<sup>20</sup> of the same Organic Act on Jurisdictional Guarantees and Constitutional Oversight regulates the petition procedure by providing that “Any person or group of persons may submit an application for protective measures, verbally or in writing, before any judge”.

5.12 The Ombudsman’s Office has sought to comply with its mandate by applying for legal remedies, carrying out investigations and resolving cases where it is considered that the rights of persons with disabilities have been violated. It should also be noted that, in view of certain situations, approaches are being made to State institutions to review their procedures in order to ensure that the rights of persons with disabilities are effectively exercised.

5.13 The Office has likewise intervened by monitoring due process in administrative or judicial cases in which one of the parties is a person with disabilities. Finally, a mechanism has been established with the aim of preventing and immediately halting any form of torture or cruel, inhuman or degrading treatment, the intention being to support the State in eradicating such practices, for example in detention centres where persons with disabilities may be held.

5.14 In the new Organic Comprehensive Criminal Code, published on 10 February 2014 in Supplement No. 180 of the Official Register, article 176<sup>21</sup> categorizes the offence of discrimination, prescribing a sentence of 1 to 3 years’ imprisonment.

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defencelessness *vis-à-vis* an economic, social, cultural, religious or any other kind of power.

5. Discriminatory acts committed by any person.”

<sup>19</sup> Art. 31 (Procedure): “The procedure for ordering protective measures should be informal, simple, rapid and effective at every stage. The judge has a duty to seek the simplest measures available to him or her to protect the right being threatened or violated.”

<sup>20</sup> Art. 32 (Petition): “Any person or group of persons may submit a petition requesting protective measures, verbally or in writing, before any judge. Where more than one judge is available, selection shall be by lottery. The person submitting an application for protective measures shall be present as a matter of priority in the room where the lots are drawn. Where the application is made orally, the lot will be drawn on the basis of personal identification only. The application may be lodged jointly with an injunction relating to any of the legal guarantees foreseen in the Constitution when its purpose is to curtail violation of the right. In such cases, the protective measures shall be considered before the action to declare a violation of rights so that it will not be necessary to classify the injunction before precautionary measures can be ordered; if they are permissible, the judge can order the precautionary measures when he or she finds in favour of the action. The injunction shall be dealt with in accordance with the provisions of this Act. The petitioner shall declare whether he has applied for any other protective measure relating to the same fact.”

<sup>21</sup> Section 5 (Offences against the right to equality), para.1 (Offence of discrimination), art. 176 (Discrimination): “A person who, except in the cases stipulated as affirmative action policies, propagates, practices or encourages any distinction, restriction, exclusion or preference based on nationality, ethnicity, place of birth, age, sex, gender or sexual orientation, civil status, language, religion, ideology, socio-economic condition, migratory status, disability or state of health with the aim of impairing or annulling the recognition, enjoyment or exercise of rights on an equal footing shall be punished by a term of imprisonment of one to three years. If the offence identified in this article is ordered and carried out by public officials it shall be punished by a term of imprisonment of 3 to 5 years.”

**6. Please explain why disability prevention is considered to be a form of affirmative action.**

6.1 Disability prevention is regarded as State policy in Ecuador, not as a form of affirmative action. This is an essential clarification given the misinterpretations that could arise on the basis of previous publications and documents. The following normative instruments govern State policy in this regard: the Constitution of the Republic, section 6 (Persons with disabilities), article 47; and section 2 (Health), article 359.

6.2 The Organic Act on Disabilities: article 1 (Purpose); article 3 (Goals); chapter 2, section 2, (Health), article 19 (Right to health); article 20 (Promotion, prevention, skills training and rehabilitation subsystems); article 22 (Human genetics and bioethics); article 31 (Training the educational community).

6.3 The Organic Act on Health: article 6 (Responsibility of the Ministry of Public Health), paragraphs 6 and 7; and article 26.

6.4 Item 3 (Prevention) of the National Agenda on Disability Equality defines public policy as follows: "To promote measures to prevent and provide early diagnosis of and care for disability." The main lines of this policy are:

- To prevent disabilities produced by illness and other factors;
- To promote a culture of prevention in Ecuadorian society;
- To prevent congenital disabilities;
- To prevent disabilities due to traffic accidents;
- To prevent risks and accidents at work;
- To reduce all kinds of violence;
- To reduce the number of cases of disability resulting from medical negligence.

6.5 In this way, the Ecuadorian State will promote policies to prevent disabilities and, together with society and the family, will further equality of opportunity for persons with disabilities and their social integration.

6.6 Until 2008, CONADIS carried out disability prevention campaigns with fifth- and sixth-grade secondary-school students nationwide, involving an average of 1,000 students per province. These campaigns were focused on the following topics:

- A healthy lifestyle through permanent exercise and positive attitudes;
- Prevention of accidents at work and work-related illnesses, through injury reduction and the avoidance of work-related illnesses and disabilities among workers;
- Prevention of traffic accidents, by furthering awareness of responsible driving habits;
- Permanent health checks in elderly adults, geared to maintaining an active lifestyle through constant exercise and sport to avoid disabilities;
- Care during pregnancy and childbirth, among mothers under eighteen and over thirty-five and in cases of multiple pregnancies;
- Control of certain infections and parasites, through vaccination, periodic medical checks, early diagnosis, personal hygiene and environmental safeguards;
- Prevention of accidents in the home, aimed at children and the elderly.

6.7 The main advances that Ecuador has made in the prevention of disability include:

- *Neonatal metabolic screening*, involving free heel tests for newborns for the early diagnosis of four metabolic errors, namely congenital hypothyroidism, phenylketonuria and galactosemia. The objective is early treatment and the avoidance of intellectual disability and/or premature death of young children. It is carried out in all health centres and sub-centres in the country.

Results:

- 214,496 out of 280,000 newborn children have been given the test on the fourth day of life to prevent intellectual disability;
- 145 cases detected.

*Source:* Office of the Vice-President of the Republic and Ministry of Public Health, year 2013.

- *Early detection of hearing disabilities*, involving a school-based early diagnosis service, facilitating early treatment and the prevention of related complications.

Results:

- 1,467 audiology services set up in the public health network for diagnosing hearing deficiencies;
- 517,719 hearing tests for schoolchildren.

*Source:* Office of the Vice-President of the Republic and Ministry of Public Health, year 2013.

- *Early detection of visual impairment*, involving the detection and treatment of refraction errors in the Ecuadorian population to correct visual defects. The Vision Plan is a project to prevent blindness and visual impairment.

Results:

- Introduction in the public health network of seven services to diagnose low vision;
- 900 blind assistive aids (portable computers with screen readers) supplied to students in basic education, basic higher education, secondary education and higher education.

*Source:* Office of the Vice-President of the Republic and Ministry of Public Health, year 2013.

- *Prevention and treatment of disabling illnesses:*

Results:

- 15 per cent reduction in the malnutrition rate;
- 161,013 prenatal check-ups, assistance in childbirth and medical tests on children up to one year of age.

*Source:* Ministry of Public Health, year 2013.

- *Early detection of neuro-development disorders*, aimed at improving the quality of life of children aged 0 to 5 through the early diagnosis and treatment of developmental and neurocognitive disorders.

Results:

- 10,544 screenings carried out;
- Setting up of a comprehensive neuro-rehabilitation centre;

- Establishment of a documentation and research centre.

*Source:* Ministry of Public Health, year 2013.

6.8 The National Council on Disability Equality has published the National Agenda on Disability Equality 2013–2017, an instrument reflecting the common demands of persons with disabilities and setting out strategies for broad and comprehensive responses in both the short and medium term. With the aim of helping to build an inclusive society with regard to disability, the Council has issued guidelines for the design of public policies to promote, protect and ensure full enjoyment of the rights of persons with disabilities, based on the principles of equality and non-discrimination. Under the heading Legislation and Justice, it advocates a policy of effective access to justice, without discrimination and on equal terms with other people, which argues that persons with disabilities should have access to justice through appropriate affirmative action.

6.9 In April 2014 the Transitional Commission set up to define the institutional framework<sup>22</sup> for ensuring equality between men and women launched the National Agenda on Women and Gender Equality 2014–2017, a technical and policy tool aimed mainly at ensuring the effective observance of rights and mainstreaming gender equality nationwide. The agenda affirms the rights of individuals and proposes public involvement in overcoming examples of inequality. The policies contained in the Agenda include affirmative action on behalf of persons with disabilities, aimed at transforming discriminatory social relations and ensuring genuine substantive equality.

6.10 The National Agenda on Women and Gender Equality 2014–2017 includes the following objectives:

- *Reproduction and sustainability of life.* Policy 1:
  - Implement the national system of health care, employing specialized human skills, at each stage in the life cycle and for persons with disabilities;
  - Implement mechanisms to regulate and coordinate the provision of goods and care services in the public sector, private sector, family and community with a view to their integration in the National Health System;
  - Implement mechanisms conducive to exercise of the right to work for persons responsible for caring for others, such as flexibility of working hours, distance work, child development centres and special care facilities.
- *A life free from violence.* Policy 2:
  - Guarantee women and lesbian, gay, bisexual, transsexual and intersex persons (LGBTI) a life free from violence;
  - Develop the specialized human skills to provide adequate care for victims of gender violence, having particular regard to the cases of children, adolescents, LGBTI persons, the elderly, persons with disabilities, peoples and nationalities, in rural and urban sectors alike.
- *Education and knowledge.* Policy 3:
  - Promote the education of women with disabilities, with the aim of strengthening their autonomy through inclusive services in the regular and specialized educational systems.

<sup>22</sup> The Transitional Commission has the task of designing the institutional structure to be put in place to ensure equality between women and men and issuing the necessary decisions for the functioning and organization of the Commission. <http://www.comisiondetransicion.gob.ec/>.

- *Health. Policy 4:*
  - Promote the comprehensive health of women and LGBTI persons, as well as full exercise of their sexual and reproductive rights;
  - Implement mobile health care in remote areas, with the focus on pregnant or breastfeeding women and those with disabilities and diseases common among rural women and related to age;
  - Strengthen and improve the coverage of health services for persons with disabilities, promoting and facilitating autonomy and improvement of the condition of women and LGBTI persons, having regard to the types and degree of disability.
- *Sport and recreation. Policy 5:*
  - Promote sporting, recreational and leisure activities for women and LGBTI persons aimed at improving the quality of life and enriching leisure time.
  - Promote policies to reconcile professional sporting activities and caring activities, particularly for women involved in conventional and adaptive sport.
- *Production and employment. Policy 7:* Promote the effective role of women and LGBTI persons in the economic and productive development of the country, creating conditions for overcoming underemployment, unemployment and labour exploitation.

6.11 Ensure effective and flexible work opportunities for women responsible for the care of others, women heads of households and women in situations of poverty and extreme poverty.

**7. Please provide disaggregated data on the percentage of women and girls with disabilities currently enrolled at the primary, secondary and tertiary levels.**

7.1 The following table provides data on the special and regular education of persons with disabilities with reference to the different types of education:

**Special education: public, State-funded religious, municipal and private**

Type of education	Public			State-funded religious			Municipal			Private			Overall total
	Baccalaureate	Basic Education	Initial Education	Baccalaureate	Basic Education	Initial Education	Baccalaureate	Basic Education	Initial Education	Baccalaureate	Basic Education	Initial Education	
<b>Total Special Education</b>	<b>104</b>	<b>7 111</b>	<b>1 326</b>	<b>26</b>	<b>1 722</b>	<b>400</b>	<b>497</b>	<b>103</b>		<b>1 979</b>	<b>263</b>	<b>13 531</b>	

Source: Ministry of Education – Department of Inclusive and Special Education.

**Regular education: public, State-funded religious, municipal and private**

Type of education	Public			State-funded religious			Municipal			Private			Overall total
	Baccalaureate	Basic Education	Initial Education	Baccalaureate	Basic Education	Initial Education	Baccalaureate	Basic Education	Initial Education	Baccalaureate	Basic Education	Initial Education	

<i>Type of education</i>	<i>Public</i>			<i>State-funded religious</i>			<i>Municipal</i>			<i>Private</i>			<i>Overall total</i>
	<i>Baccalaureate</i>	<i>Basic Education</i>	<i>Initial Education</i>	<i>Baccalaureate</i>	<i>Basic Education</i>	<i>Initial Education</i>	<i>Baccalaureate</i>	<i>Basic Education</i>	<i>Initial Education</i>	<i>Baccalaureate</i>	<i>Basic Education</i>	<i>Initial Education</i>	
<b>Total Regular education</b>	<b>1 414</b>	<b>10 197</b>	<b>441</b>	<b>186</b>	<b>651</b>	<b>22</b>	<b>36</b>	<b>218</b>	<b>7</b>	<b>475</b>	<b>3 213</b>	<b>317</b>	<b>17 177</b>

Source: Ministry of Education – Department of Inclusive and Special Education.

**Number and percentage of students with disabilities enrolled in universities-2012**

<i>Disability</i>	<i>No. enrolled with disability 2012</i>
Hearing	164
Physical	594
Intellectual	36
Language	20
Psychological	20
Visual	578
<b>Total enrolled with disability</b>	<b>1 412</b>

*Source:* National Higher Education System of Ecuador 2012. Production: National Secretariat for Higher Education, Science and Technology – National Higher Education System of Ecuador 2014.

**Number and percentage of students with disabilities enrolled in universities-2012 by sex**

<i>Disability</i>	<i>No. enrolled with disability 2012 men</i>	<i>No. enrolled with disability 2012 women</i>
Language	10	10
Hearing	83	81
Physical	327	267
Intellectual	16	20
Psychological	9	11
Visual	330	248
<b>Total enrolled with disability</b>	<b>775</b>	<b>637</b>

*Source:* National Higher Education System of Ecuador 2012. Production: National Secretariat for Higher Education, Science and Technology – National Higher Education System of Ecuador 2014.

**Number of students with disabilities receiving a grant**

<i>Disability</i>	<i>No. students with disabilities enrolled 2012 receiving grants</i>
Hearing	76
Physical	277
Intellectual	12
Language	6
Psychological	10
Visual	162
<b>Total</b>	<b>543</b>

*Source:* National Higher Education System of Ecuador 2012. Production: National Secretariat for Higher Education, Science and Technology – National Higher Education System of Ecuador 2014.

7.2 The strengthening of regulations and the framing of public policies guaranteeing rights have combined to help reduce existing gaps in the number of students with disabilities entering and remaining in the education system. Mention can be made in this regard of the public policies contained in the National Plan for Good Living (*Buen Vivir*)

2009–2013, designed to “guarantee the right to Good Living through the elimination of inequalities” and to “improve progressively the quality of education with a focus on gender, intercultural and inclusive rights (...)”. These policies, incorporated in the activities of the relevant ministries, are reflected in the following figures:

<i>Levels of education</i>	<i>Women students</i>	<i>Men students</i>	<i>Total</i>
Initial education (from 2 to 4 years)	1 020	1 219	<b>2 239</b>
Basic education (from 5 to 12 years)	4 167	5 732	<b>9 899</b>
Higher basic education (from 13 to 15 years)	662	909	<b>1 571</b>
Baccalaureate (from 16 to 18 years)	50	59	<b>109</b>
<b>Total</b>	<b>5 899</b>	<b>7 919</b>	<b>13 818</b>

*Source:* Administrative register – Master Archive of Educational Institutions – school year 2012 – end of 2013. Available at [www.educación.gob.ec](http://www.educación.gob.ec).

Produced by CGIES – DIA.

\* This table takes into account the student population with some kind of disability registered at the different levels of basic and baccalaureate education.

7.3 With a view to furthering the gains made so far, the National Plan for Good Living 2013–2017 also contains policies aimed, among other things, at universalizing access to education at all levels, promoting the completion of studies and improving educational quality. In accordance with these national planning guidelines and with the aim of building on the educational achievements concerning persons with disabilities, the Knowledge and Human Talent Sector includes among its intersectoral policies the “Provision of public services characterized by quality, caring, broad coverage and cultural and/or territorial relevance and based on a coherent model for the rational strengthening of capacities and individual and collective knowledge for Good Living”.

**8. Please indicate how many women with disabilities of working age are currently employed.**

8.1 A total of 78,577 persons with disabilities are integrated in the labour market (persons affiliated to the Ecuadorian Institute of Social Security), of whom 22,577 or 29 per cent are women.

**9. Please indicate the current status of the regulation on protection and comprehensive care for victims of gender, domestic and sexual violence, and what provisions it contains regarding women and girls with disabilities.**

9.1 The Constitution of the Republic (2008) provides that the prosecution and punishment of domestic and sexual violence, hate crimes and crimes perpetrated against particular groups such as persons with disabilities, given their special characteristics, should offer victims better protection. It also stipulates that the State should create the conditions for ensuring the comprehensive protection of its citizens throughout their lives, should guarantee observance of the rights and principles enshrined in the Constitution, in particular equality in diversity and non-discrimination, and should give priority to measures for groups requiring special attention given the persistence of inequalities, exclusion, discrimination and violence or because of their age, health or disabilities.

9.2 In the case of various offences, the Organic Comprehensive Criminal Code also makes it an aggravating circumstance if the victim is under 18 or over 65 years of age, is a pregnant woman or person with disabilities or is suffering from a life-threatening illness. The offences within this category include sexual harassment, abuse and rape and other

topics relating to sexual violence. It also includes among the offences against the right to equality discrimination on grounds of disability, as well as acts of physical violence and psychological hatred against persons with disabilities.

9.3 With regard to protection measures, article 558<sup>23</sup> of the Comprehensive Criminal Code provides that the accused may be deprived of the “custody of the child, adolescent or person with disabilities who is the victim of the offence and a suitable person appointed where necessary as his or her guardian or tutor, under the specialized legal provisions relating to children and adolescents or in accordance with civil law, as appropriate”.

9.4 In another area, article 598 of the Organic Code on Territorial Organization, Self-government and Decentralization provides that “the Cantonal Councils for the Protection of Rights will be responsible for drafting, mainstreaming, monitoring, following up and evaluating municipal public rights protection policies, in coordination with the public policies of the National Equality Councils. The Councils for the Protection of Rights will coordinate with the specialized inter-agency bodies and networks for the protection of rights”. The Cantonal Councils “will be composed of an equal number of representatives of civil society, especially rights holders; representatives of the public sector, comprising delegates of decentralized agencies of national Government with direct responsibility for guaranteeing, protecting and defending the rights of persons and groups with priority needs;

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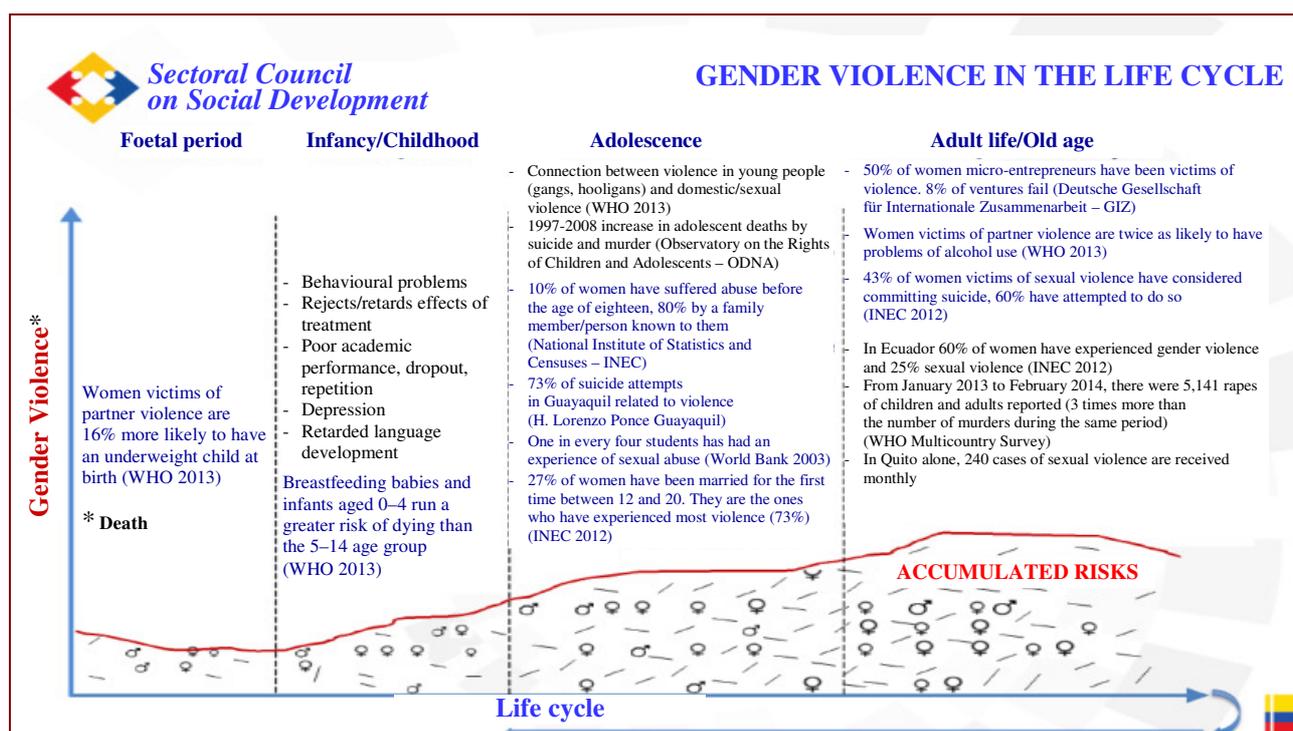
<sup>23</sup> Chapter 3 (Protection measures), art. 558 (Procedures): “The protection measures are: 1. Ban on the accused attending various places or meetings. 2. Ban on the accused approaching the victim, witnesses and specified persons, whatever their location. 3. Ban on the accused engaging in acts of persecution or intimidation of a victim or members of the family circle, personally or through third parties. 4. Extension of a protection order in favour of the victim or a member of the family circle in the case of violence against a woman or members of her family circle. 5. Order instructing the accused to leave the home or dwelling if living with the victim entails a risk to the physical, psychological or sexual safety of the latter or of a witness. 6. Return home of the victim or witness and the simultaneous departure of the accused in the case of a shared residence and where it is necessary to protect the personal safety of the latter. 7. Measure depriving the accused of the custody of the child, adolescent or person with disabilities who is the victim of the offence, and the appointment of a suitable person as guardian or tutor, under the specialized legal provisions relating to children and adolescents or in keeping with civil law, as appropriate. 8. Suspension of the permission of the accused to own or carry weapons, where possessed, or confiscation of the latter. 9. Ordering the relevant treatment to be followed by the accused or the victim and any children under eighteen years of age, as appropriate. 10. Immediate suspension of the polluting activity or that affecting the environment when there is a risk of damage to persons, ecosystems, animals or nature, without prejudice to the orders made by the competent environmental authority. 11. Eviction order to prevent invasions and illegal settlements, for which purpose the authorities must be able to rely on the assistance of the security forces. The eviction order can also be made and implemented by the Commissioner of Police when he or she learns that an invasion or a legal settlement is taking place, in which case he or she shall inform the prosecutor so that the latter can launch the corresponding investigation. 12. Where violent offences against women or members of her family circle are involved, in addition to the precautionary and protection measures for which this Code provides, the court will simultaneously fix an allowance to support the victim of the aggression in accordance with the relevant legal provision, except in the cases where the person already receives an allowance. In the case of offences involving violence against women or members of their family circle, offences against sexual integrity, reproductive integrity and personal freedom, and trafficking in persons, the prosecutor may make an urgent application to the court, where warranted, for the adoption of one or more protection measures in favour of the victims, to whom they should be immediately applicable. In the case of offences involving violence against women or members of their family circle, the court shall order immediately, where warranted, one or more of the aforementioned measures. Members of the National Police Force shall provide help, protection and transport to victims of violence against women or members of their family and shall draw up the statement of evidence for submission to the competent authority within twenty-four hours.”

delegates of the respective metropolitan or municipal governments; and delegates of rural parish governments”.

9.5 Article 3 of the Regulations on Sexual Offences in Education “establishes the rights of victims of sexual offences in education and the procedures and mechanisms to be followed by teachers, technical and administrative staff, the authorities and other members of the educational community in all kinds of educational institutions and centres with regard to addressing and dealing with sexual offenses in the educational system and safeguarding the rights of victims”. Under these regulations, all educational bodies are obliged to: “(a) coordinate and collaborate with the Public Prosecutor, the criminal investigation police and the National Child Welfare Police during the preliminary investigation and prosecution of education personnel under their responsibility and jurisdiction; and (b) report in a transparent, relevant, effective and efficient way to civil society organizations, institutions and entities on the activities of its members”. (Art. 9)

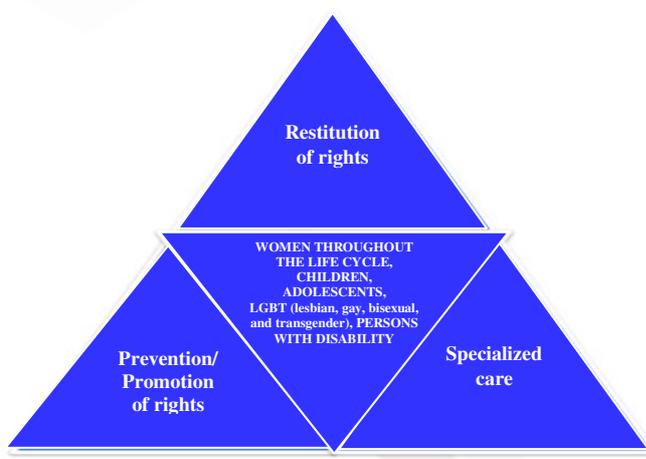
9.6 DINAPEN is a unit of the National Police Force with special responsibility for protecting, investigating and monitoring observance of the rights of children and adolescents stipulated in the Constitution, legislation and international agreements.

9.7 The System of Special Protection for Victims of Gender Violence (Quito, May 2014) establishes prevention, inclusion and special protection services for victims of gender violence with a view to monitoring gender violence throughout the life cycle and strengthening special protection:



 **Sectoral Council  
on Social Development**

**DIMENSIONS OF SEXUAL VIOLENCE**



**SPECIAL PROTECTION**

Recognize that the fundamental rights of women, children, adolescents, LGBT and persons with disabilities have been violated and **need to be protected and restored.**

**Gender violence** is one of the problems that most requires an intersectoral approach.

**10. Please provide information on existing analyses and statistics regarding children with disabilities of indigenous and Afro-Ecuadorian nationalities and how the latter access existing disability programmes, particularly education and health programmes.**

10.1 The Children and Adolescents Code recognizes the right of children and adolescents of indigenous and Afro-Ecuadorian nationalities to develop in accordance with their culture and in a multicultural framework, in keeping with the Constitution, provided the cultural practices do not infringe their rights.

10.2 The National System for the Classification of Disability does not include information on children disaggregated by indigenous and Afro-Ecuadorian nationality. The information provided is by type of disability only.

10.3 At present, the country has a single statistical database relating to disability, established in 2010 by the National Institute of Statistics and Censuses (INEC) in connection with the holding of the Seventh National Population Census. It shows that, out of a total population of 14,483,499, there are 816,156 persons with disabilities in Ecuador and that 158,916, or 34.3 per cent, of these are children under 12 with some kind of permanent disability.

10.4 INEC is currently processing the information to establish with greater accuracy and in more detail the impact on school attendance of disability among indigenous and Afro-Ecuadorian children. The aim is to take these indicators into account in the initial diagnosis that the new National Council for Intergenerational Equality hopes to carry out this year in keeping with its legally established mandate. These tasks are the monitoring, evaluation, supervision and mainstreaming of public policy for the equality of children, adolescents, young people, older people and persons with disabilities.

10.5 In the sporting arena, the practice of ancestral sport has been introduced, strengthening and promoting cultural exchanges and the development of multiculturalism so as to stimulate and ensure that sport, physical activity and recreation take place on an equal footing. The disaggregated information is as follows:

**Age group: children aged 5 to 11****Ethnicity: Afro-Ecuadorian**

<i>Disaggregated</i>	<i>Do you have a permanent disability lasting over one year?</i>			<i>Total number of persons in age group</i>
	<i>Yes</i>	<i>No</i>	<i>No response</i>	
National	6 138	148 562	10 666	<b>165 366</b>
<b>Sex</b>				
Male	3 431	74 794	5 515	<b>83 740</b>
Female	2 707	73 768	5 151	<b>81 626</b>
<b>Area</b>				
Urban	4 324	108 517	6 759	<b>119 600</b>
Rural	1 814	40 045	3 907	<b>45 766</b>
<b>Region</b>				
Sierra	1 181	32 240	1 509	<b>34 930</b>
Costa	4 760	112 865	8 963	<b>126 588</b>
Amazonía	195	3 288	188	<b>3 671</b>
Island	2	169	6	<b>177</b>
<b>Planning areas</b>				
Area 1	2 058	42 503	4 122	<b>48 683</b>
Area 2	87	2 948	138	<b>3 173</b>
Area 3	97	2 782	109	<b>2 988</b>
Area 4	721	16 307	1 103	<b>18 131</b>
Area 5	829	20 677	1 558	<b>23 064</b>
Area 6	117	3 242	124	<b>3 483</b>
Area 7	265	7 383	447	<b>8 095</b>
Area 8	1 454	38 123	2 445	<b>42 022</b>
Area 9	501	14 171	608	<b>15 280</b>
Undefined	9	426	12	<b>447</b>
<b>Poverty by unsatisfied basic needs</b>				
Poor	5,005	113 857	8 551	<b>127 413</b>
Not poor	1 087	34 161	1 988	<b>37 236</b>
Undefined	46	544	127	<b>717</b>
<b>Extreme poverty by basic unsatisfied needs</b>				
Extreme poverty	3 084	63 392	4 939	<b>7 415</b>
Not extreme poverty	3 008	84 626	5 600	<b>93 234</b>
Undefined	46	544	127	<b>717</b>

**Age group: children aged 5 to 11****Ethnicity: Indigenous**

<i>Disaggregated</i>	<i>Do you have a permanent disability lasting over one year?</i>			<i>Total number of persons in age group</i>
	<i>Yes</i>	<i>No</i>	<i>No response</i>	
National	5 742	158 706	18 333	<b>182 781</b>
<b>Sex</b>				
Male	3 123	79 097	9 196	<b>91 416</b>
Female	2 619	79 609	9 137	<b>91 365</b>
<b>Area</b>				
Urban	759	27 965	1 380	<b>30 104</b>
Rural	4 983	130 741	16 953	<b>152 677</b>
<b>Región</b>				
Sierra	3 332	104 930	10 428	<b>118 690</b>
Costa	303	9 258	1 243	<b>10 804</b>
Amazonía	2 101	44 295	6 650	<b>53 046</b>
Island	6	223	12	<b>241</b>
<b>Planning areas</b>				
Area 1	806	23 504	2 964	<b>27 274</b>
Area 2	1 221	25 065	2 857	<b>29 143</b>
Area 3	1 777	56 585	6 092	<b>64 454</b>
Area 4	38	1 003	87	<b>1 128</b>
Area 5	416	9 879	1 089	<b>11 384</b>
Area 6	917	21 101	3 771	<b>25 789</b>
Area 7	188	5 752	581	<b>6 521</b>
Area 8	110	4 408	348	<b>4 866</b>
Area 9	269	11 404	544	<b>12 217</b>
Undefined	0	5	0	<b>5</b>
<b>Poverty by basic unsatisfied needs</b>				
Poor	5 422	145 878	17 441	<b>168 741</b>
Not poor	299	12 587	822	<b>13 708</b>
Undefined	21	241	70	<b>332</b>
<b>Extreme poverty by basic unsatisfied needs</b>				
Extreme poverty	4 033	103 004	13 174	<b>120 211</b>
Not extreme poor	1 688	55 461	5 089	<b>62 238</b>
Undefined	21	241	70	<b>332</b>
<i>Nationality</i>	<i>Yes</i>	<i>No</i>	<i>No response</i>	<i>Total</i>
Awa	55	1 020	153	<b>1 228</b>
Achuar	63	1 213	359	<b>1 635</b>
Chachi	70	1 660	566	<b>2 296</b>
Cofán	7	236	45	<b>288</b>
Epera	2	112	8	<b>122</b>

<i>Disaggregated</i>	<i>Do you have a permanent disability lasting over one year?</i>			<i>Total number of persons in age group</i>
	<i>Yes</i>	<i>No</i>	<i>No response</i>	
Siona	5	116	6	127
Secoya	1	141	16	158
Shiwiar	5	231	28	264
Shuar	686	15 020	2 867	18 573
Tsáchila	18	373	39	430
Waorani	9	437	44	490
Zápara	2	118	6	126
Andoa	31	1 057	61	1 149
Kichwa Amazonía	2 104	55 133	4 829	62 066
Pastos	2	188	8	198
Natabuela	5	211	18	234
Otavalo	251	9 110	616	9 977
Karanki	69	1 545	272	1 886
Kayambi	186	5 373	532	6 091
Kitukara	10	302	16	328
Panzaleo	304	10 663	979	11 946
Chibuleo	20	624	104	748
Salasaka	25	702	138	865
Kisapincha	61	1 673	143	1 877
Tomabela	68	1 738	256	2 062
Waranka	133	2 736	439	3 308
Puruhá	604	19 682	2 405	22 691
Kañari	158	4 733	343	5 234
Saraguro	94	2 976	284	3 354
Paltas	1	41	14	56
Pueblo manta	3	59	2	64
Pueblo Huancavilca	18	305	30	353
Other nationality	94	3 095	277	3 466
Don't know	578	16 083	2 430	19 091
<b>Total</b>	<b>5 742</b>	<b>158 706</b>	<b>18 333</b>	<b>182 781</b>

*Source:* Population and Housing Census, 2010.

*Produced by:* Ecuadorian Integrated Social Indicators System (SIISE) – Ministry for the Coordination of Social Development.

10.6 Children with disabilities of indigenous and Afro-Ecuadorian nationality have access to various services (education and health) on a preferential basis depending on their condition.

**11. Please indicate whether the “Ecuador without Barriers” programme provides for the alteration of public buildings constructed prior to the programme’s implementation.**

11.1 On 23 May 2007, the Government raised the “Ecuador without Barriers” programme to the level of State policy, initiated by the Office of the Vice-President of the Republic with the aim of responding to the needs of the most vulnerable sections of society, such as persons with disabilities.

11.2 The “Ecuador without Barriers” programme was implemented during 2007 and 2008 and includes various components relating to disability. One of these is accessibility, which has involved the development of a national technical standard, the INEN Standard on Accessibility to the Built Environment.<sup>24</sup> This was devised jointly by the Vice-Presidency of the Republic, CONADIS and the Association of Municipalities of Ecuador (AME), and is now applicable at national level. In accordance with this standard, the municipalities require certain accessibility criteria to be met in the construction of new buildings. With regard to existing public buildings, the necessary modifications to ensure accessibility are being introduced gradually in keeping with the requirements of each institution. In the case of existing buildings owned by private institutions, implementation of the relevant municipal regulations is in progress.

11.3 The programme provides for joint management with local authorities to eliminate physical obstacles in urban spaces, buildings and public transport in all Ecuadorian cities, and the creation and/or adaptation of sites in the municipalities where the basic rehabilitation units (UBR) will operate. However, no mechanism yet exists for monitoring application of the standard.

**12. Please provide information on the scope of the Ecuadorian technical regulation with regard to the concept of accessibility, indicating in particular whether the regulation covers issues related to information, communication, including information and communications technologies (ICT), and the use of plain language, and not merely accessibility from an architectural perspective.**

12.1 The INEN 42 technical regulation on “Accessibility of the physical environment for persons with disabilities and reduced mobility”,<sup>25</sup> published in the Official Register No. 69 of 18 November 2009, establishes the requirements to be met in public and private areas and defines accessibility criteria for ensuring public safety and preventing risks to health and life. Article 1 of INEN 042 makes these requirements obligatory.

12.2 The standards and other provisions of the Ecuadorian technical regulation are applicable to all public and private areas, as well as to the corresponding service installations and urban furniture, with the aim of ensuring accessibility for all in Ecuadorian territory. Compliance with of the regulation is reflected in signposting, graphic symbols, pedestrian walkways, buildings, handholds, kerbstones, handrails, fixed ramps, pedestrian level crossings and overpasses, corridors and passageways, parking lots, stairways, road signs and markings, transport, toilet facilities, lifts, bedrooms, pavements, window closure devices, kitchens, urban furniture and terminology.

12.3 The scope of the Ecuadorian technical regulation is restricted to physical space and does not include standards of accessibility relating to information, communication and technology, or the use of plain language.

12.4 However, with the cooperation of various bodies, work is under way to update and expand the standard through the adoption and adaptation of international standards of

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<sup>24</sup> [http://www.quitoturismo.gob.ec/descargas/concurso/bicentenario/cuerpos\\_normativos/F%20NTEINEN2243.pdf](http://www.quitoturismo.gob.ec/descargas/concurso/bicentenario/cuerpos_normativos/F%20NTEINEN2243.pdf).

<sup>25</sup> [http://www.normalizacion.gob.ec/wp-content/uploads/downloads/2013/11/rte\\_042.pdf](http://www.normalizacion.gob.ec/wp-content/uploads/downloads/2013/11/rte_042.pdf).

universal accessibility. Currently, the new standard contains reference to the built environment; the urban environment; software; Web accessibility; accessibility of consumer products and labelling; DALCO criteria to facilitate accessibility to the environment; an accessibility management system; instructions for use on medicine containers and packaging, Braille and other formats for persons with visual impairments; ramps enabling persons with reduced mobility to enter and exit vehicles seating more than nine passengers; signposting for persons with visual disabilities in urban spaces and buildings accessible to the public; signposting in the form of haptic flooring and surfaces; accessibility to the physical environment of persons with disabilities by means of ramps and dropped kerbs.

**13. Please indicate whether the guidebook on assistance for persons with disabilities in the event of emergencies or natural disasters is binding on the public and private sectors, and whether any other emergency situation protocols exist in addition to the guidebook.**

13.1 The guidebook on assistance for persons with disabilities in the event of emergencies or natural disasters includes useful recommendations for institutions involved in risk management, such as municipalities, organizations of persons with disabilities and society in general, concerning ways of mobilizing, reaching and assisting persons with visual, hearing, intellectual and physical disabilities in an evacuation situation.

13.2 The guidebook becomes binding once it has become part of the contingency and emergency plans of the National Secretariat for Risk Management. It has been integrated in the plans of the Sierra Centro in the provinces of Cotopaxi, Chimborazo, Tungurahua and Pichincha.

13.3 Apart from this document, the National Secretariat for Risk Management also issued the 2013/14 Handbook of Basic Risk Management References with the support of Humanitarian Aid and Civil Protection (ECHO). It is an essential part of the Secretariat's institutional task to generate policies, strategies and standards promoting risk prevention and mitigation capacities within the decentralized national system and to restore and rebuild the social, economic and environmental fabric affected by emergencies or disasters.

13.4 Through the Integrated Risk Management Model, the Secretariat encourages active participation among agencies of the autonomous decentralized municipal and provincial governments and the community at large. This process has arisen as a contribution to society in the face of the lack of inter-agency coordination, inefficient communication, the lack of proper land-use regulations and inadequate strategies and standards for promoting the integral development of highly vulnerable communities. This model aims to influence the management of the decentralized autonomous governments through the creation and/or strengthening of the municipal risk management units with a view to:

- Helping to create the “Land of Good Living” (*Territorio del Buen Vivir*) through the Urban Revolution;
- Strengthening the institutional capacities of the Decentralized Autonomous Governments;
- Encouraging a culture of risk management among citizens;
- Promoting risk identification and mitigation.

13.5 In this connection, article 35<sup>26</sup> of the Ecuadorian Constitution provides that persons with disabilities shall receive priority specialized care in the public and private sectors in situations of risk and humanitarian emergencies and emphasizes that the State will provide special protection to persons who are doubly vulnerable.

13.6 In addition, the Ministry of Electricity and Renewable Energy is working with the Ministry of Public Health on an emergency response plan in case of radiological accidents, which could include guidelines for persons with disabilities.

**14. Apart from the changes made to certain terms used in the Civil Code, please indicate whether there are plans to replace the substitution model in decision-making with the supported decision-making model. Please indicate whether the pejorative language used in the Civil Code to refer to persons with disabilities has been modified.**

14.1 The Organic Act on Disabilities in its amendment and exemption clauses provides for the elimination of all discriminatory terms relating to sensory disabilities (deaf and dumb) and intellectual and psychological disabilities (insane), as reflected in articles 103, 126, 256, 490, 491, 492, 493, 1012, 1050 (subparas. 5 and 6), 1463 and 2409 (para. 1) of the Ecuadorian Civil Code.

14.2 For example, the amendments to the Civil Code published in Supplement No. 843 to the Official Register of 3 December 2012 employ the expression “deaf person” (*persona sorda*) and no longer “deaf mute” (*persona sorda muda*). On the other hand, the expression “insane” (*demente*) continues to be used in the Civil Code, whereas a respectful form of language would refer to intellectual disability.

14.3 It should however be noted that institutions such as the National Council for Persons with Disabilities (CONADIS) has produced a Guide to Positive Language and Inclusive Communication,<sup>27</sup> which opens the way to the creation of a more constructive language that recognizes and respects the individual.

**15. Please indicate whether the civil, criminal and labour codes of procedure and other administrative ordinances establish the obligation for judges and other authorities to make procedural accommodations to ensure the participation of persons with disabilities.**

15.1 On 27 June 2013, the Council of the Judiciary, the National Council on Disabilities and the Ministry of Economic and Social Inclusion signed a framework agreement for inter-agency cooperation between the signatories in areas of common interest, with a view to ensuring that persons with disabilities can exercise their right of access to justice in accordance with the provisions of the Constitution and the Organic Act on Disabilities.

15.2 The latter instrument has furthered the coordination of activities to increase awareness of the barriers that restrict access by persons with disabilities to the services of the judiciary. Measures have also been taken to eliminate the barriers to access by persons with disabilities and to improve standards of service through the training of public officials.

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<sup>26</sup> Chapter 3 (Rights of persons and groups with priority needs), art. 35: “Older people, children and adolescents, pregnant women, persons with disabilities, persons deprived of their freedom and those suffering from catastrophic or highly complex illnesses shall receive priority specialist care in the public and private sectors. The same priority care shall be given to persons in risk situations, victims of domestic and sexual violence, children subject to ill-treatment and casualties of natural or man-made disasters. The State shall provide special protection to persons who are doubly vulnerable.”

<sup>27</sup> <http://www.larediberoamericana.com/wp-content/uploads/2012/07/Guia-para-una-comunicacion-incluyente.pdf>.

15.3 In the last quarter of 2013, CONADIS fulfilled its pledge by completing the first stage in the nationwide inspection of the buildings in which the Council of the Judiciary receives the public. The report entitled “Verification of Infrastructure Accessibility in Judiciary Premises” includes inspection reports on 79 buildings nationwide and a consolidated report in digital format.

15.4 One of the components of this agreement is a contract for a consultancy to develop a “Handbook on the Rights of Persons with Disabilities” within the judiciary. This handbook is designed to cover the four types of disability — hearing, physical, visual and sensory — and to serve as training material for the country’s judiciary personnel and justice officials within the Judicial Training College.

15.5 The Council of the Judiciary is a signatory to the “Inter-agency Cooperation Agreement to Strengthen the Good Living of Persons with Mental Health Problems and Their Families”, together with the Secretariat of the Presidential Initiative for Building the “Buen Vivir” Society, the Ministry of Public Health, the Ministry for the Coordination of Social Development, the Ministry for Economic and Social Inclusion, the National Council on Disability Equality, and the Secretariat of Higher Education, Science, Technology and Innovation.

15.6 The aim of this instrument is to establish joint cooperation for the realization and implementation of projects on the application of a model of socio-economic inclusion as an alternative to internment centres for persons with mental health problems.

15.7 Under this Agreement, the Council of the Judiciary undertook to promote and strengthen access to justice and protection of the rights of persons with mental health problems and to generate proposals for protecting and reshaping their rights in coordination with the Ministry of Public Health.

15.8 In October 2013, the “First International Encounter on Access to Justice, Social Inclusion and Good Living of Persons with Disabilities”, attended by some forty judges, was held to discuss the main challenges concerning disability and the administration of justice.

15.9 In the cities of Quito, Guayaquil and Cuenca, 679 aspiring notaries were trained on the legal situation of persons with disabilities.

15.10 The Council of the Judiciary held the sixth phase of a staff awareness programme on the correct way of catering for persons with disabilities, which provided virtual training for 9,177 officials. A seventh phase of this programme is scheduled to take place in July 2014, when some 3,000 persons will receive awareness training on the following topics:

- Disability in Ecuador: general considerations on disability;
- Classification of disability: types of disability;
- Environment and disability: guidelines on disability;
- Accessibility: general topics;
- Legal provisions on disability: constitutional framework, domestic legislation, international instruments and affirmative action.

15.11 The current Civil and Criminal Codes and legislation provide for the various judges and authorities to make reasonable accommodations in the different procedures to ensure the full participation of persons with disabilities and to guarantee their rights. In this connection, the National Council of the Judiciary, the National Council on Disability Equality and the Ministry of Economic and Social Inclusion are undertaking various projects in the context of cooperation on matters of common interest in order to guarantee the right to justice for persons with disabilities, the aim being to ensure that the latter can

exercise their right of access to the courts in keeping with national legislation and the provisions of international instruments. The projects in question are:

- **Project:** “Disability awareness campaigns aimed at officials responsible for the administration of justice.”

**Objective:** To promote awareness among staff and professionals responsible for the administration of justice concerning protocols governing the treatment and procedures applicable to persons with disabilities and the enforcement and observance of their rights.

- **Project:** “Training of judges, prosecutors, public defenders and representatives of the Ombudsman’s office on the topic of disability.”

**Objective:** To train judges, prosecutors, public defenders and representatives of the Ombudsman’s office regarding the rights of persons with disabilities and other disability-related topics.

- **Project:** “Psychological assistance for persons with disabilities during and after judicial proceedings.”

**Objective:** To provide support and psychological assistance at every stage in the judicial proceedings to persons with disabilities who are the victims of physical, sexual or psychological violence and to provide for their subsequent skills training and rehabilitation.

- **Project:** “Training in Ecuadorian sign language.”

**Objective:** To provide for interpretation services in Ecuadorian sign language with the aim of meeting the requirements of the deaf community, the Council of the Judiciary and other public and private bodies.

- **Project:** “Accessibility of the physical environment and information and communication within the justice system.”

**Objective:** In conformity with standards of accessibility relating to the physical environment, to adapt the civil infrastructure within which the justice administration operates nationally by eliminating obstacles that impede or complicate the task of persons with disabilities in carrying out judicial formalities.

- **Project:** “Measures to address the current situation of persons with disabilities and persons with catastrophic illnesses deprived of liberty in social rehabilitation centres in Ecuador.”

**Objective:** To undertake a census in social rehabilitation centres in Ecuador to determine the number of persons with disabilities and/or suffering from catastrophic illnesses.

15.12 In the employment field, article 45<sup>28</sup> of the Organic Act on Disabilities provides that persons with disabilities have the right to access to paid work on equal terms; and article 46<sup>29</sup> on employment policies stipulates that the National Council on Disability Equality, in coordination with the Ministry of Labour Relations, is responsible for formulating policies

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<sup>28</sup> Section 5 (Work and Training), art. 45 (Right to work): “Persons with disabilities, impairments or disabling conditions are entitled to have access to paid work on equal terms and not to be discriminated against in employment practices, including procedures for job application, selection, hiring, training and severance and other conditions established in the public and private sectors.”

<sup>29</sup> Art. 46 (Employment policies): “The National Council on Disability Equality, in coordination with the national authority responsible for labour relations, shall formulate policies on work training, employment, integration and reintegration in the labour market, professional retraining and job counselling for persons with disabilities, and on the services responsible for job promotion, opportunities, placement and retention for persons with disabilities, applying gender equality criteria.”

on work training, employment, integration and reintegration in the labour market for persons with disabilities.

15.13 Article 42.33 of the Labour Code<sup>30</sup> highlights the country's progress towards the promotion and defence of the rights of persons with disabilities, with particular reference to full enjoyment of the right to work. Under this article, public and private employers are required to hire an increasing percentage of persons with disabilities, rising to at least 4 per cent of the total workforce.

15.14 In the sphere of criminal justice, article 171<sup>31</sup> of the Code of Criminal Procedure establishes that the criminal trial judge may replace or rescind a precautionary measure imposed previously and may rule that a preventive prison sentence be replaced by house arrest in cases where the person on trial has a greater than 50 per cent disability, as certified by CONADIS, or is suffering from a catastrophic illness.

15.15 With regard to hate crimes, article 177<sup>32</sup> of the Organic Comprehensive Criminal Code provides that persons who commit acts of physical violence or psychological hatred against one or more persons on grounds of disability shall be punished with a term of imprisonment of one to three years.

15.16 The same article provides that if the acts of violence result in personal injury the guilty party shall be punished with the prison sentence applicable to the crime of aggravated injury to a third party, and if the acts of violence are the cause of death the punishment shall be a term of imprisonment of 20 to 26 years.

15.17 Similarly, article 176 of the Organic Comprehensive Criminal Code concerning discrimination establishes that: "any person who, except in the cases classified as affirmative action policies, propagates, practices or encourages any distinction, restriction, exclusion or preference on grounds of nationality, ethnicity, place of birth, age, sex, gender identity or sexual orientation, cultural identity, civil status, language, religion, ideology,

<sup>30</sup> "The public or private employer with 25 or more employees shall hire at least one person with disabilities in permanent work deemed appropriate to his or her knowledge, physical condition and intellectual abilities, in keeping with the principles of gender equality and diversity of disability, in the first year following the entry into force of this Act, with effect from the date of its publication in the Official Register. In the second year, the proportion of persons with disabilities hired shall be one per cent of the total staff, in the third year two per cent, in the fourth year three per cent, through to the fifth year when the number hired shall be four per cent of the total staff, this percentage remaining fixed in succeeding years."

<sup>31</sup> Art. 171 (Alternative punishments): "Provided the offence is punishable by a sentence no longer than five years and provided the accused person does not have a previous criminal conviction, the judge or court may order one or various of the following alternatives to pre-trial detention: 1. House arrest, with such police monitoring as the judge or court may order; 2. An order to appear periodically before the judge or court or before such authority as he/she may designate; 3. A ban on leaving the country, the accused's place of residence or the territorial limits fixed by the judge or court. Whatever the offence, pre-trial detention shall be replaced by house arrest whenever the accused person or defendant is over 65 years of age or is a woman who is pregnant or within ninety days of having given birth. In these cases, the time limit for detention stipulated in article 169 of this Code shall likewise be applicable."

<sup>32</sup> Art. 177 (Hate crimes): "A person guilty of physical violence or psychological hatred against one or more persons on the grounds of their nationality, ethnicity, place of birth, age, sex, gender identity or sexual orientation, cultural identity, civil status, language, religion, ideology, socio-economic condition, migratory status, disability, state of health or HIV carrier status shall be punished by a prison sentence of one to three years. If the acts of violence result in personal injury, they shall be punished by the prison sentence appropriate to the crime of aggravated injury to a third party. If the acts of violence result in the death of a person they shall be punished by a term of imprisonment of 20 to 26 years."

socio-economic condition, migratory status, disability or state of health with the aim of nullifying or impairing the recognition, enjoyment or exercise of rights on an equal basis shall be punished by a term of imprisonment of one to three years”.

15.18 If the offence referred to in this article is ordered or carried out by public officials, it shall be punished by a term of imprisonment of three to five years.

**16. Please confirm that no persons with psychosocial or intellectual disabilities are permanently institutionalized in psychiatric hospitals in Ecuador.**

16.1 Ecuador has two psychiatric hospitals dependent on the Ministry of Public Health (MSP), situated in the city of Quito (Julio Endara Psychiatric Hospital and the San Lázaro Specialized Outpatient Mental Health Hospital). There are two specialized hospitals in the same city providing outpatient and short-term detention psychiatric services as well as psychological care. There are also four private psychiatric hospitals in Quito, Guayaquil, Cuenca and Santo Domingo de los Tsáchilas.

16.2 The only State psychiatric hospital with detention facilities possesses 50 beds for mentally handicapped persons, of whom 77 per cent are chronic patients and the remaining 23 per cent acute patients.

16.3 Persons with mental disabilities confined in institutions constitute a minority and correspond to patients abandoned by their families and cases of acute and chronic mental disorder treated in strict compliance with mental health protocols.

16.4 A Cooperation Agreement has been finalized between the Secretariat of the Presidential Initiative for Building the “Buen Vivir” Society, the Council of the Judiciary, the Ministry of Public Health, the Ministry for the Coordination of Social Development, the Ministry for Economic and Social Inclusion, the National Council on Disability Equality, and the Secretariat of Higher Education, Science, Technology and Innovation, with the aim of establishing and implementing a joint pilot project for the application of a model of socio-economic and health-care inclusion, as an alternative to psychiatric care and treatment centres.

**17. Please indicate the kind of personal assistance available to persons with disabilities deprived of their liberty and, where applicable, who is responsible for providing it.**

17.1 Article 51.6<sup>33</sup> of the Ecuadorian Constitution recognizes the right of persons with disabilities deprived of their liberty to receive preferential specialized treatment.

17.2 Title IV (Regime of Personal Protective Measures and Social Rehabilitation), chapter 2 (General Social Rehabilitation Regime), article 710<sup>34</sup> of the Organic Comprehensive Criminal Code provides that persons with disabilities, among other priority groups, shall have specific programmes to meet their needs when deprived of their liberty.

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<sup>33</sup> Art. 51: “The following rights are granted to persons deprived of their liberty: (...) 6. To receive preferential specialized treatment in the case of pregnant and breast-feeding women, adolescents, elderly persons, the sick or persons with disabilities. 7. To benefit from measures of protection for children, adolescents, persons with disabilities and elderly persons who are under their care and who depend on them.”

<sup>34</sup> Art. 710 (Treatment programmes for groups with priority needs): “Older adults, pregnant women, persons with disabilities and persons with catastrophic illnesses shall have specific programmes suited to their needs while in detention.”

17.3 Ecuador is in the process of implementing the Ecuadorian Prison Management Model (MGPE),<sup>35</sup> which places special emphasis on the protection of groups with priority needs, including persons with disabilities.

17.4 In accordance with this model, key areas in the coordinated effort of protecting persons with disabilities will be education and culture, including physical culture, work, health, psychology, social work and the law. They will form part of the coordinated treatment and education activities in the maximum, medium and low-security wings of each social rehabilitation centre, including the male and female sections. MGPE also includes a plan to undertake joint work with institutions involved with the topic of disability so as to benefit from their advice and follow-up.

17.5 With regard to the procedure for treating persons with disabilities,<sup>36</sup> MGPE provides that the medical files of persons deprived of liberty who, on entering the centre and being assessed, produce documents showing them to have a motor or sensory disability and who show signs of disability, should carry information clearly identifying the type and percentage of disability and the corresponding medication.

17.6 Where the detainee lacks documentation identifying him or her as a person with disabilities but who shows obvious signs of disability, the Centre must contact the Ministry of Public Health so that the person's condition can be assessed with the involvement of doctors from the Social Rehabilitation Centre.

17.7 Detainees who during their stay in the Social Rehabilitation Centre acquire or develop a physical, mental or sensory disability that affects their everyday functioning shall undergo a diagnosis prior to receiving the treatment given to persons with disabilities.

17.8 Educational, labour, productive, recreational and training activities under the Ecuadorian Prison Management Model will include a programme adapted to the treatment of persons with disabilities, depending on the number of persons enrolled in the disability programme and the characteristics of the Centre.

17.9 The Centre will also promote the signing of international agreements in association with CONADIS, the Ministry of Public Health, the Ministry of Economic and Social Inclusion, the Ministry for the Coordination of Social Development, the Ministry of Education and the Ministry for the Coordination of Production, Employment and Competitiveness.

17.10 The Model provides for social rehabilitation centres at national level to include technical specifications enabling persons with disabilities to function normally. The administrative staff and those in charge of the centres should receive continuous training in the mechanisms and protocols for caring for persons with disabilities in all circumstances, particularly in emergency situations.

17.11 With regard to adolescent offenders, the Organic Comprehensive Criminal Code provides in the final paragraph of article 363(c)<sup>37</sup> that socio-educational measures involving

<sup>35</sup> The Ecuadorian Prison Management Model (MGPE) represents a fundamental change in the concept and functioning of the Social Rehabilitation System and in the lifestyle of detainees, based on constitutional and legal standards and public ethical principles. MGPE will be fully implemented and functioning in all the country's Social Rehabilitation Centres by 2017.

<sup>36</sup> See the Technical Team of the Prison Reform Commission of the Ministry of Justice, Human Rights and Religion, Ecuadorian Prison Management Model, 2013, pp. 33 and 34.

<sup>37</sup> Art. 363(c) (Timing of the implementation of socio-educational measures): "Socio-educational measures are applicable once the judgement has been made enforceable. No pregnant adolescent girl, whatever the stage of pregnancy, shall be deprived of her liberty or notified of the judgement until ninety days following childbirth. In no case shall socio-educational measures involving deprivation of

the loss of liberty shall in no case be applied to adolescents with a total and permanent disability that restricts their functioning.

17.12 CONADIS has signed a cooperation agreement with the Council of the Judiciary and the Ministry of Justice, Human Rights and Religion, including provision for implementing the project: “Measures to address the current situation of persons with disabilities and persons with catastrophic illnesses detained in social rehabilitation centres in Ecuador.”

17.13 As mentioned previously, a census was carried out in the country’s social rehabilitation centres under this project to ascertain the number of persons with disabilities and/or suffering from catastrophic illnesses. On the basis of the findings, comprehensive measures will be taken to issue identity cards to all persons with disabilities in the centres, to provide the necessary technical assistance, to offer support and psychological help where appropriate, and to supply the required legal aid. These activities will be carried out jointly with the Ministry of Economic and Social Inclusion, the National Council of the Judiciary, the Ministry of Health and CONADIS.

17.14 Under the Constitution, responsibility for providing these services rests with the Ministry of Justice, Human Rights and Religion, which is also in charge of implementing a prison management model in association with the Council of the Judiciary.

17.15 With regard to the proper use of medication, the Office of the Ombudsman reports that the stock of medicines in detention centres is generally based on the standard pharmacopoeia of the Ministry of Health. As regards specialized medicines, these are directly managed by social workers in conjunction with families or pharmaceutical companies. In the case of addictions, the Centres are still unable to provide treatment for lack of specialized personnel and infrastructures.

17.16 In the case of pre-trial imprisonment, article 537, paragraph 3,<sup>38</sup> of the Organic Comprehensive Criminal Code provides that this measure can be replaced by house arrest when the accused is suffering from the terminal phase of an incurable illness, a severe disability or a catastrophic illness. This protective mechanism has been established with the aim of guaranteeing assistance to a person with disabilities in the course of an investigation; the person concerned can be in the care of family members while the trial is taking place.

17.17 Concerning treatment, the Code provides for various approaches aimed at ensuring the rehabilitation and social reintegration of persons with disabilities. Detention centres must accordingly arrange specific programmes for priority groups, including persons with disabilities, with the aim of meeting their needs while they are in detention.<sup>39</sup>

17.18 To ensure that adolescent offenders receive proper treatment, articles have been adopted that assist them by reformulating the provisions in the Code on Children and Adolescents. In this regard, adolescents suffering from a permanent or transitory mental

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liberty be applied to adolescents suffering from total permanent disability that restricts their functioning.”

<sup>38</sup> Art. 537 (Special cases): “Without prejudice to the sentence with which the offence has been punished, pre-trial imprisonment may be replaced by house arrest and the use of an electronic surveillance device in the following cases: 1. When the accused is pregnant or within 90 days of having given birth. In cases where the child is born with an illness that requires special care on the part of the mother, this time limit may be extended to a maximum of a further ninety days. 2. When the accused is over 75 years of age. 3. When the accused is in the terminal phase of an incurable illness, has a severe disability or is suffering from a catastrophic, highly complex or extremely rare illness that prevents him or her representing themselves, in which case a medical certificate delivered by the relevant public body will suffice.”

<sup>39</sup> Organic Comprehensive Criminal Code, *Registro Oficial* No. 180, 10 February 2014, art. 710.

disturbance who commit an offence are exempt from criminal liability. In such cases, the judge will pronounce an appropriate security measure, based on a psychiatric report drawn up by a professional designated by the prosecutor;<sup>40</sup> and socio-educational measures involving deprivation of liberty will not be ordered in the case of adolescents with total and permanent disability that restricts their functioning.<sup>41</sup>

17.19 In 2013, CONADIS signed an inter-agency agreement with the Council of the Judiciary on access to justice, under which technical staff in the Council's construction, works and maintenance units received training on, and copies of, the INEN Standards on Accessibility to the Built Environment. As a first phase, sixty-nine buildings for use of the judiciary were constructed on the basis of accessibility criteria and were inspected before delivery to check their degree of compliance with standards of accessibility to the built environment, communication and information. During the second phase in 2014, some 425 courts under the Council of the Judiciary will be inspected to verify standards of accessibility and identify possible improvements or additions in that regard.

**18. What steps have been taken to amend article 447 of the Criminal Code, which authorizes abortion without informed consent in cases of rape or statutory rape committed against a woman who is “an imbecile”?**

18.1 The term “idiotia” (in Spanish), used in referring to cases of non-punishable abortion, no longer appears in article 150 of the Organic Comprehensive Criminal Code, which states that “abortion carried out by a doctor or other trained health professional that takes place with the consent of the woman, or that of her husband, partner, close family members or legal representative when she herself is not able to give it, shall not be punishable in the following cases:

- If the abortion has been carried out to avoid danger to the life or health of the mother and if such danger cannot be averted by other means;
- If the pregnancy is the consequence of the rape of a woman suffering from mental disability”.

18.2 It is also stated that the abortion may be carried out by a trained health professional, and the reference in article 447 of the (previous) Criminal Code to a “mujer idiota o demente” has been removed.

**19. Please indicate what happens to children with disabilities who are abandoned by their parents at birth and what measures are taken to ensure that their birth is registered.**

19.1 There is no separate procedure for abandoned children with disabilities, the same procedure being followed for all children who have been abandoned.

19.2 Chapter III, article 31, of the General Civil Registration, Identification and Certification Act provides that the identification and certification procedure is obligatory.

19.3 The Act similarly provides that the birth must be declared and registration applied for by one of the following persons, in priority order: (a) the father; (b) the mother; (c) a grandparent; (d) a sibling aged over 18; (e) another relative aged over 18; (f) a representative of welfare or police institutions; or persons recovering a foundling.

19.4 This provision applies equally to children born with disabilities since there is no provision establishing specific rules for such cases.

<sup>40</sup> *Ibid.*, Art. 342(b).

<sup>41</sup> *Ibid.*, Art. 363(c).

19.5 National criminal law in this respect provides as follows:

<i>Article</i>	<i>Abandonment</i>	<i>Imprisonment</i>	<i>Punishment for aggravating circumstances</i>	<i>Consequences for the child</i>
474	Abandonment or exposure in a non-remote location, excluding a hospice	One month to one year and a fine of US\$ 6	If the guilty parties are the parents or persons responsible for their care, the punishment is six months to two years' imprisonment and a fine of US\$ 6 to US\$ 16	Mutilated or lamed. Three months' to two years' imprisonment and a fine of US\$ 8 to US\$ 30 Death. From one to five years
478	Abandonment in a remote location	Six months to three years	If the guilty parties are the parents or persons responsible for their care, the punishment is from two to five years	Mutilated or lamed. Maximum sentence Death. Rigorous imprisonment from three to six years
475	Abandonment or exposure in a non-remote location, excluding a hospice			

19.6 Irrespective of the criminal sanctions incurred, a procedure exists to prevent the abandoned children from becoming vulnerable. When the Ecuadorian National Police or the National Directorate of Special Police for Children and Adolescents receives complaints about an abandoned child, the child is immediately accompanied to an institution that houses him or her until the family can be located. This investigation can be ordered either by the prosecutor or by the relevant judge. When the nuclear or extended family cannot be located, the judge orders the child to be entered in the civil register with a first and family name in common use in the country.

**20. Please provide information on steps taken to repeal article 7 of the Naturalization Act, which prevents persons with a “chronic illness” from obtaining an Ecuadorian nationality card.**

20.1 It is true that article 7, subparagraph 3, of the Naturalization Act<sup>42</sup> states that: a nationality card cannot be granted to “someone suffering from a chronic or contagious illness”.

20.2 According to the Constitution, “Persons are Ecuadorian by birth or by naturalization”.

20.3 Article 8 of the same political charter states that “The following persons are Ecuadorian by naturalization”:

- Persons who have acquired naturalization papers;
- Foreign children adopted by an Ecuadorian, who shall retain Ecuadorian nationality unless expressing a wish to the contrary;

<sup>42</sup> [https://www.urjc.es/ceib/espacios/migraciones/instrumentos/ecuador/documentos/Ley\\_de\\_naturalizacion](https://www.urjc.es/ceib/espacios/migraciones/instrumentos/ecuador/documentos/Ley_de_naturalizacion).

- Children born abroad of an Ecuadorian mother or father by naturalization shall retain their Ecuadorian nationality while they are minors unless expressing a wish to the contrary;
- Persons who marry or maintain a de facto union with an Ecuadorian, in accordance with the law;
- Persons who have acquired Ecuadorian nationality by rendering services to the country through their individual talent or effort;
- Those acquiring Ecuadorian nationality are not obliged to renounce their nationality of origin;
- Ecuadorian nationality acquired by naturalization shall be lost if expressly renounced.

20.4 In this regard, the Ecuadorian Ministry of Foreign Affairs includes among the conditions that foreign citizens must meet to obtain naturalization and acquire Ecuadorian citizenship that they fulfil the requirements set out in Ministerial Agreement No. 00004,<sup>43</sup> published in the Official Register No. 382 of 10 February 2011.

20.5 Consequently, subparagraph 3 of article 7.3 of the Naturalization Act is not applicable since article 11.2 of the Constitution additionally provides that:

“All persons are equal and shall enjoy the same rights, duties and opportunities.

No one shall be discriminated against on grounds of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, legal record, socio-economic condition, migratory status, sexual orientation, health status, HIV carrier status, disability, physical difference or any other distinguishing feature, whether personal or collective, temporary or permanent, which might be aimed at or result in the diminishment or annulment of recognition, enjoyment or exercise of rights. All forms of discrimination are punishable by law.

The State shall adopt affirmative action measures that promote genuine equality for rights-holders in situations of inequality.”

20.6 It should also be noted that the Ministry of Foreign Affairs is carrying out the necessary review to reform this law, which dates from 1976, together with other legal provisions such as the Migration and Foreigners Act.

**21. Please indicate whether personal assistance programmes have been established to enable persons with disabilities to live in the community.**

21.1 The Ministry of Economic and Social Inclusion is implementing the Programme on Inclusion in the Life Cycle and the Family, which involves:

- Actions to safeguard the development of citizens from birth throughout the life cycle, with particular reference to the population with special needs. Key measures include family outpatient consultations, catering for children in “Buen Vivir” Children’s Centres (CIBV), improved accreditation and monitoring standards in private children’s centres, participation and empowerment of young people in various spheres, and placement of elderly people suffering from neglect, under an agreement with the Ecuadorian Institute of Social Security (IESS).
- Special protection measures to include and care for persons with disabilities, safeguard the rights of families and communities and actively search for persons at

<sup>43</sup> <http://cancilleria.gob.ec/wp-content/uploads/2012/10/Acuerdo-Ministerial-000004.pdf>.

risk, which involves social reintegration, family placement and institutionalization in cases of abandonment.

21.2 The Ministry has ongoing cooperation agreements with various autonomous decentralized governments, municipalities and NGOs for the maintenance of day centres and family and community care centres, providing rehabilitation, training and family support services.

**22. Please indicate what requirements a family must meet in order to be eligible for the human development voucher and the Joaquín Gallegos voucher.**

22.1 The Human Development Voucher for Persons with Disabilities is a monthly monetary benefit of US\$ 50 for persons with a disability level of or above 40 per cent who are living below the poverty line fixed by the Ministry for the Coordination of Social Development on the basis of the results obtained from the Social Register.

22.2 The requirements that a family must meet are:

Enter the web page of the Ministry for the Coordination of Social Development at [www.registrosocial.gob.ec](http://www.registrosocial.gob.ec) and register; attach a copy of the identity card and disability card and send them to the Ministry. In the case of a change of address, the information should be updated by dialling the telephone number 1800 272 727 or sending a text message (cell phone) to 1818. The bodies responsible for approving this benefit are the Ministry for the Coordination of Human Development and the Ministry for Economic and Social Inclusion.

22.3 The Joaquín Gallegos Lara voucher is a benefit consisting of a conditional cash transfer of US\$ 240 to a responsible caregiver. The allowance is payable to:

- Persons with a severe disability in a critical state that prevents them looking after themselves.
- Persons with a catastrophic and rare illness, as defined by the Ministry of Health in accordance with the Organic Act on Health, who are in a critical socio-economic situation.
- Children and adolescents under 14 years of age with HIV/AIDS.
- Requirements: Severe disability:
  - Copy of the identity card of the beneficiary and of the caregiver.
  - Copy of the disability document (equal to or over 75 per cent physical disability and equal to or over 65 per cent intellectual disability). Payment receipt for one of the basic services (water, electricity, telephone). In the case of a tenant, a copy of the basic services receipt and of the landlord's identity card.
  - Medical care certificate endorsed by the public health network no more than six months prior to the submission of the request.
  - Sketch of the location of place of residence.
- Requirements: Catastrophic illnesses:
  - Copy of the identity card of the beneficiary and of the caregiver.
  - Payment receipt for one of the basic services (water, electricity, telephone). In the case of a tenant, a copy of the basic services receipt and of the landlord's identity card.
  - Sketch of the location of place of residence.

- Certificate of non-affiliation to the Ecuadorian Institute of Social Security (IESS), the Social Security Institute of the Armed Forces (ISSFA), and the Social Security Institute of the Police (ISSPOL).
- Requirements: Under 14 years of age with HIV/AIDS:
  - Copy of the identity card of the beneficiary and of the caregiver.
  - Payment receipt for one of the basic services (water, electricity, telephone). In the case of a tenant, a copy of the basic services receipt and of the landlord's identity card. Certificate of the specialist doctor, endorsed by the public health network no more than six months prior to the submission of the request.
  - Sketch of the location of place of residence.

**23. Please indicate which official radio and television programmes, if any, must be broadcast incorporating accessibility features for persons with disabilities.**

23.1 Article 37<sup>44</sup> of the Organic Act on Communication establishes the right of access to communication by persons with disabilities and incorporates measures that facilitate access to this right, including the use of sign language and Braille. This process involves not only the media but also public and private institutions forming part of the media network.

23.2 In this connection, the National Council on Disability Equality (CONADIS) and the Council on the Regulation and Development of Information and Communication held meetings with the National Secretariat for Communication to arrange for sign language interpretation of the President of the Republic's "Enlace Ciudadano" (Citizen Link) broadcasts every Saturday. This project has been suspended since last April and the next event will be the signing of an agreement to include sign language interpretation in other contexts such as national news programmes.

23.3 At the same time, events are being organized to encourage media personnel to take appropriate measures to ensure that persons with disabilities can exercise their right to freedom of information.

23.4 The National Secretariat for Communication has also been given a communication flash for publicizing the human rights of persons with disabilities through radio slots and audio-visual television and cinema spots.

23.5 CONADIS has implemented the Communication Plan for 2014 together with the Investment Project, which provide for the following activities:

- Publication of the legal provisions on disability in Ecuador;
- Publication of an agenda that includes positive language;
- Distribution of a pamphlet on affirmative action;
- Video and audio recording, publishing and reproduction of the legal provisions on disability;

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<sup>44</sup> Art. 37 (Right of access of persons with disabilities): "The right of access to and exercise of the rights to communication of persons with disabilities are to be promoted. To this end, the media, public and private media institutions and society as a whole will develop measures that will include translation with subtitles, sign language and Braille. The State will adopt public policies in support of research to improve preferential access by persons with disabilities to information and communication technologies."

- Production and post-production of two videos on the difficulties facing persons with disabilities and accident prevention among the disabled community;
- Production and post-production of an animated video and a version for broadcasting media spots on the human rights of persons with disabilities.

23.6 Video projections on cinema screens, motorway billboards, closed-circuit televisions in public and private bodies, and other media:

- *Cine-Foro* projection: Life histories of persons with disabilities;
- Clip publicizing International Down's Syndrome Day;
- Contract with a daily news monitoring service (radio, press, television and digital media), from June to December 2014, to identify the public impact of the Institution's activities at national level;
- Dissemination of information on the sports rights of persons with disabilities and their families via a mass sports event;
- Organization of travelling puppet shows as part of the project to raise awareness through the medium of works of art;
- Campaign involving the projection of cinema spots on the rights of persons with disabilities;
- Motorway billboards publicizing the rights of persons with disabilities;
- Publication of content on media rights and disability in reviews and Sunday newspapers.

**24. Please specify the procedure used for determining when a child with disability "cannot" be enrolled in the general school system and must be enrolled in special education schools.**

24.1 Enrolment in special education establishments, now described as "specialized for persons with disabilities", is only justified in cases where, following a request or approval by the parents and/or legal representatives, the multidisciplinary team specialized in disabilities has certified through a comprehensive report that the children cannot be enrolled in regular educational establishments, now termed "ordinarios" (in Spanish). This procedure has its legal basis in article 29<sup>45</sup> of the Organic Act on Disabilities.

24.2 For this purpose, an evaluation of the student with special educational needs must be carried out, as decided by the report of the institution's specialized multidisciplinary team.

**25. Please indicate the State's strategy for establishing an inclusive education system for persons with disabilities.**

25.1 Special education caters for children and adolescents with sensory (visual or auditory or visual-auditory), motor, intellectual/autism or multiple disabilities. It encourages the promotion and inclusion of those able to enter mainstream educational establishments.

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<sup>45</sup> Art. 29 (Evaluation for special education): "Enrolment in special educational establishments for persons with disabilities is only justified in cases where, following a request or approval by the parents and/or legal representatives, the multidisciplinary team specialized in disabilities has certified in a comprehensive report that it is not possible to enrol the children in regular educational establishments. The evaluation concerned shall be the basis for the development of a human-centred education plan. The composition and functioning of the specialized multidisciplinary teams shall be the responsibility of the national education authorities, in keeping with the relevant regulation."

25.2 Special educational establishments will be supplied with the human talent, teaching resources and accessible infrastructure to carry out their work. This will include specific early care programmes for parents and families and educational inclusion programmes. These institutions will be classified according to the disability of the students.

25.3 The functions of the special educational establishments are to evaluate, plan and draw up a specialized individual schedule, provide therapies for students, steer them towards regular educational establishments, and manage the development of the institution's human talent. There will be three levels of special education — initial, basic and secondary.

25.4 The aims of the special educational establishments are to encourage a culture of respect for difference; remove barriers to learning associated with infrastructures, institutional functioning, communication systems, teaching resources, curricula, teaching staff and geographical context; and train autonomous and independent citizens.

25.5 The Inclusion Support Units (UDAI) are a specialized educational service with the technical tools to cater for students with special educational needs, geared to facilitating the inclusion of children and adolescents. UDAI will be introduced at district level in keeping with demand and will be staffed by specialist professionals, including educational psychologists, educators, clinical psychologists, language therapists and occupational therapists.

25.6 The existing Psycho-Pedagogical Assessment, Diagnosis and Guidance Centres (CEDOPS) will in future be called UDAI.

25.7 Objective No. 5 of the National Agenda on Disability Equality, concerning education, includes a policy and seven specific guidelines on inclusive education for persons with disabilities. Each guideline in the Agenda is linked to the policies and guidelines of the National Plan for Good Living (PNBV) 2013–2017.

25.8 In addition, the Organic Act on Disabilities, under articles 27 and 28, provides as follows with regard to the right to education:

- Art. 27: The State will ensure that persons with disabilities can access, pursue and complete their studies to obtain education and training within the national and higher education systems by attending classes in a special educational establishment or regular educational establishment, as appropriate.
- Art. 28, Inclusive education: The national education authority will take the relevant steps to promote the inclusion of students with special educational needs requiring technical/technological and human support, such as temporary or permanent specialized staff and/or adjustments in terms of curricula, physical accessibility, communications and learning facilities, within a regular educational establishment.

25.9 To this end, the national education authority will draw up, issue and monitor compliance with the national standard, which is to be updated annually, and will include guidelines for caring for persons with special educational needs, with the emphasis on pedagogical suggestions concerning educational provision for each type of disability. Compliance with this standard will be compulsory for all educational institutions within the national education system.

25.10 Similarly, article 47 of the Organic Act on Intercultural Education provides that “Both formal education and non-formal education shall take into account the special educational needs of persons in emotional, cognitive and psycho-motor terms. The national education authority will ensure that these special educational needs do not impede access to education. The Ecuadorian State will guarantee the inclusion and integration of these persons in educational establishments, eliminating barriers to their education”.

25.11 Educational establishments are required to accept all persons with disabilities and to create the support services and physical, curricular and promotional structures adapted to their needs. They must also provide for teacher training in the methodology and evaluation methods specific to the teaching of children with disabilities, the process of collaborative learning and the provision of a quality and caring environment.

25.12 Public policies based on these regulatory guidelines have been adopted as part of the State's strategy for guaranteeing the rights of persons with disabilities. The National Plan for Good Living, for example, embodies the following policies and guidelines directed to this end.

## Policies

4. Achieve universal access to initial, basic and secondary education and democratize access to higher education I

4.2 Promote the completion of studies at all educational levels

4.3 Promote non-formal and continuing education facilities for the exchange of knowledge and know-how as part of a learning society

4.4 Improve the quality of education at all levels and in all its forms, for knowledge generation and the inclusive training of creative, cooperative, responsible, critical, participatory and productive individuals, based on the principles of equality, social equity and territoriality

4.5 Enhance the role of teachers and other educational professionals as key actors in the development of Good Living

5.1 Promote the democratization of leisure and public fora for the construction of cooperative social relations between individuals

## Guidelines

(d) Expand and implement special education options and improve the provision of educational services for children, adolescents, young people and adults with special educational needs, whether or not associated with disability, by promoting their inclusion in the regular or special education systems.

(b) Diversify and implement new forms of education, second-chance education and educational scheduling and mechanisms to enable adolescents, young people, adults and groups with priority needs to resume, pursue and extend their schooling to remedy educational drop-out and backwardness.

(d) Ensure the compatibility of construction standards and physical facilities with access by persons with disabilities and/or special needs in non-formal contexts for the exchange of knowledge and know-how.

(j) Create and strengthen infrastructures, equipment and technologies that, combined with trained human talent, promote the development of creative, cognitive and innovative capacities at all levels of education, based on the criteria of inclusion and cultural relevance.

(d) Establish teacher-training mechanisms for the application of sign language, Braille, etc. as well as teaching models for the education of persons with disabilities.

(s) Make provision for cultural, recreational and play agendas, with the emphasis on persons with various types of disability.

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25.13 The Ministry of Education, through the National Directorate of Special and Inclusive Education, has the task of ensuring that the national education system is inclusive. It pursues its task by promoting equality of opportunity and ensuring the quality of educational provision for the school-age population with special educational needs, temporary or permanent, related to disability or otherwise, with the aim of developing its potential and skills and furthering its social integration.

25.14 The result has been the promotion of an inclusive education process, aimed at providing a quality response to diverse educational needs. This has involved the creation of the “Institutional Educational Project with an inclusive focus and responsibility for fixing the institution’s overall operating rules. The project represents the second stage in the shaping of the curriculum; it provides for the educational unit’s philosophy and identity to be planned on the basis of an institutional diagnosis involving the participation of the educational community (authorities, teachers, administrators, parents, pupils) in the school’s administrative, educational and community management, with the aim of promoting an inclusive education catering for the diversity of the pupil population”.<sup>46</sup>

25.15 The National Special Education Department is the technical and administrative body responsible for the education of children, adolescents and young people with disabilities. It has coordination offices in the Southern and Coastal Regions, in 21 provincial departments, in 16 diagnosis and psycho-pedagogical guidance centres, in 101 State schools and 91 private schools. The number of pupils enrolled is approximately 17,778.<sup>47</sup>

**26. Please indicate whether persons with disabilities are included in education at all levels in the State party. What percentage of persons with disabilities complete upper secondary education?**

26.1 Article 27<sup>48</sup> of the Organic Act on Disabilities, concerning education, affirms the right to education of persons with disabilities, article 28<sup>49</sup> provides for inclusive education and article 30,<sup>50</sup> paragraph 3, states that the national education authority, i.e. the Ministry of Education, guarantees inclusive, special and specific education under the National Education Plan.

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<sup>46</sup> Office of the Vice-President of the Republic, Module I, Inclusive and Special Education, Quito, 2011, p. 35.

<sup>47</sup> National Council on Disabilities, National Agenda on Disability Equality 2013–2017, p. 63.

<sup>48</sup> Art. 27 (Right to education): “The State shall ensure that persons with disabilities can access, pursue and complete their studies within the national and higher education systems to obtain education and training by attending classes in a special or regular educational establishment, as appropriate.”

<sup>49</sup> Art. 28 (Inclusive education): “The national education authority shall take the relevant measures to promote the inclusion of students with special educational needs who require technical/technological and human support, such as specialized staff on a temporary or permanent basis and/or adjustments in terms of curricula, physical accessibility, communication and learning facilities, within a regular education establishment. To this end, the national education authority will draw up, issue and ensure compliance with the national standard, which is to be updated annually, and will include guidelines on caring for persons with special educational needs, with the emphasis on pedagogical suggestions concerning educational provision for each type of disability. Compliance with this standard will be compulsory for all educational institutions forming part of the national education system.”

<sup>50</sup> Art. 30 (Special and specific education): “The National Council on Disability Equality shall coordinate with the relevant education authorities the design, drafting and implementation of programmes for the education, training and progressive development of the necessary human resources to provide comprehensive care for persons with disabilities, with a view to ensuring equality of opportunity for social integration. The national education authority will endeavour to provide special and specific public education services for those who cannot attend regular educational establishments as a result of their functional disability.”

26.2 Item 5 of the National Agenda on Disability Equality, on the subject of education, defines it as public policy: “To promote persons with disabilities through an inclusive and specialized education in the form of a quality and caring service as well as lifelong learning opportunities.”

The guidelines for this policy are:

- To implement measures ensuring access to educational services on an equal basis with other people;
- To provide an inclusive and specialized education in the form of a quality and caring service;
- To promote the participation of students with disabilities and their families in both curricular and extracurricular activities;
- Facilitate lifelong studies and learning;
- Link educational processes and career guidance with the necessary skills for inclusion in society and the workforce;
- Bridge the equity gaps in the educational field affecting persons with disabilities;
- Increase the number of professional staff concerned with and/or specialized in inclusive and special education.

26.3 According to the 2013 data of the Master Archive of Educational Institutions of the Ecuadorian Ministry of Education, a total of 2,239 students with disabilities were enrolled in initial education, 9,899 in basic education, 1,571 in higher basic education, 109 in secondary education and 1,412 in higher education, making a total of 15,230 students enrolled in the education system. (For more information, please see consultation No. 7.)

**27. Please indicate the steps taken to ensure access to health services for persons with disabilities in indigenous communities in Ecuador.**

27.1 The Ministry of Health has made it a requirement for health professionals, in order to qualify and register as professional practitioners, to complete one year’s service in rural parishes or marginal urban areas. The practice period is remunerated in accordance with the care delivery model and in keeping with the relevant regulation in the location designated by the national health authority. At the end of the service period, the person receives a certificate of compliance with the service requirement.

27.2 The national health authority in coordination with local bodies and grassroots organizations is responsible for supervising the assignment and completion of the compulsory year by the health professionals.

27.3 The professionals concerned attend an awareness course at an induction workshop and are involved in a process of continuous training on the application of primary-care norms and protocols and the correct implementation of care models, intercultural approaches, phytotherapy and community participation, among other things.

27.4 One of the main emphases in the National Plan for Good Living has been to restore the social sector and health to the very centre of development and well-being through the recovery of the public domain. This has called for a structural reform within the Ministry of Health to bring the public health system into line with the new comprehensive health-care model. This is aimed at guaranteeing the right to health for the whole population, with a community, family, multicultural and gender focus, based on the primary health-care strategy. The strategy seeks to bring the comprehensive health services closer to households and the community by strengthening primary care as the obligatory entry point to the comprehensive network of health services in all its constituent parts, including

infrastructure, equipment and technology, which has entailed the adoption of reforms in the financing of the country's health services.

27.5 Based on national standards of service provision and applying such criteria as population density, geographical characteristics and epidemiological profile, a national health plan was defined and health centres identified in accordance with complexity and response capacity. The centres are modular in their infrastructure, with standard equipment and amenities. Decisions were also taken on the need for construction, renovation and upgrading initiatives with regard to both infrastructure and equipment. Training has also been given to primary health-care technicians, who are already engaged in strengthening primary health-care policies nationwide.

27.6 The regulations created for this purpose included licensing provisions, which have served among other things to define the strategy for strengthening primary care along four main lines:

- Construction and improvement of health service infrastructure, equipment and furnishings;
- Improvement of human response capacity;
- Introduction of a unified computer system for comprehensive health management (SIGIS);
- Definition of a health facility management model.

27.7 Ecuador took the lead in promoting resolution WHA66.9<sup>51</sup> on disability adopted at the sixty-sixth World Health Assembly in June 2013. The resolution requests the Director-General to prepare a WHO Action Plan based on the recommendations of the World Report on Disability and in keeping with the Convention on the Rights of Persons with Disabilities and the report of the High-level Meeting on Disability and Development. Afterwards, the country hosted the Regional Consultation of the Americas on the WHO Action Plan 2014–2021. Subsequently, in the framework of the 134th session of the WHO Executive Board, which took place in Geneva, Switzerland, from 20 to 25 January 2014, Ecuador promoted the Action Plan on Disability 2014–2021 through the Office of the Under-Secretary for Surveillance attached to the Ministry of Health and the Disabilities Technical Secretariat. In this way, a consensus agreement on this instrument was reached in the main executive body of the World Health Organisation.

27.8 Neonatal Metabolic Screening is a project supported by the Ecuadorian Ministry of Health, aimed at preventing intellectual disability and early death in newborn babies through the early detection and management of errors of metabolism, which prevent the appearance of four diseases:

- Congenital adrenal hyperplasia (intellectual disability and early death);
- Congenital hypothyroidism (intellectual disability);
- Galactosaemia (intellectual disability and early death);
- Phenylketonuria (intellectual disability).

27.9 The nationwide coverage of Ministry of Health involves 1,885 operational units.

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<sup>51</sup> [http://apps.who.int/gb/ebwha/pdf\\_files/WHA66/A66\\_9-sp.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA66/A66_9-sp.pdf).

**28. Please indicate whether public- and private-sector employers in Ecuador are obliged to provide reasonable accommodation when employing persons with disabilities, if necessary.**

28.1 Public and private institutions are obliged to adjust their requirements and selection methods to facilitate the participation of persons with disabilities, in pursuit of gender equity and a diversity of disability.

28.2 The national authority responsible for labour relations is required to carry out periodic inspections to check the full integration of persons with disabilities in the world of work, supervising compliance with the law regarding the percentage of staff with disabilities and their working conditions.

28.3 The work assigned to persons with disabilities must be in keeping with their abilities, potential and talent, guaranteeing their full involvement in their work, providing them with the technical and technological tools to perform their tasks, and adapting or readapting their working environment to enable them to fulfil their responsibilities.

28.4 Where the employer provides a transport service for the workers, the transport units must have appropriate means of access, or other social benefits must be provided in accordance with article 47<sup>52</sup> of the Organic Act on Disabilities.

28.5 In this connection, it is pointed out that:

- The first adjustment is based on article 47 of the Organic Act on Disabilities, which provides that for every twenty-five workers public or private-sector employers must hire a minimum of four per cent of persons with disabilities, consistent with their knowledge, physical condition and skills.
- In the case of public-sector employees in the armed forces, the national police force, the fire service and the municipal police together with the staff of private security firms, administrative personnel only need to be taken into account when calculating the percentage of staff with disabilities to be included in the workforce, given the risks involved in this kind of work. This shows the reasonable nature of the adjustments applicable to these institutions as regards the integration of persons with disabilities in the world of work.

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<sup>52</sup> Art. 47 (Inclusion in the workforce): “Public or private-sector employers with a minimum of twenty-five (25) workers are required to hire a minimum of four per cent (4%) of persons with disabilities in permanent work considered appropriate to their knowledge, physical condition and individual skills, in accordance with the principles of gender equality and diversity of disability. The percentage of inclusion in the workforce shall be distributed equitably among the provinces of the country, in the case of national employers; and in the cantons, in the case of employers in the provinces. In the case of public-sector employees in the armed forces, the national police force, the fire service and the municipal police and the staff of private security firms, administrative personnel only shall be taken into account when calculating the percentage of staff with disabilities specified in the previous paragraph, excluding the performance of operational tasks because of the risks they involve to the physical safety of persons with disabilities. The work assigned to persons with disabilities shall be in keeping with their abilities, potential and talent, guaranteeing their full involvement in their work; providing them with the technical and technological tools to perform their tasks, and adapting or readapting their working environment to enable them to fulfil their responsibilities. Where the employer provides a transport service for the workers, the transport units must have appropriate means of access, or other social benefits must be provided in accordance with the regulations of the present Act. Calculation of the percentage of persons to be included in the workforce shall exclude all contracts not classified as stable or permanent under the relevant Act.”

- Article 47 also states that employers shall provide the technical and technological tools to enable person with disabilities to carry out their activities, subject of course to the criterion of accessibility.
- Article 50<sup>53</sup> deals with staff selection mechanisms, stating that employers are required to adapt their requirements and mechanisms to facilitate the participation of persons with disabilities. It is also stipulated that persons with disabilities shall participate in vocational training activities.
- Another adjustment can be seen in article 51,<sup>54</sup> with regard to stability of employment, where the aim is to reduce exclusion by guaranteeing job stability and restricting the suppression of posts occupied by persons with disabilities or those responsible for their care.
- Under article 52,<sup>55</sup> the Act also provides that persons with disabilities have the right to obtain leave for treatment and rehabilitation on production of a certified medical prescription, without this having any effect on their stability of employment. It should be noted that public officials and private-sector employees working an eight-hour day who are responsible for persons with severe disability, duly certified, have the right to two (2) hours daily to care for them, subject to a report by the human resources department.
- It is important to mention the benefits accruing to employers as a result of the inclusion of persons with disabilities in their workforce. In accordance with article 49, employers can enjoy the following benefits for hiring persons with disabilities: Deduction for inclusion in the workforce: Employers can deduct an additional one hundred and fifty per cent (150%) in calculating the taxable income threshold with regard to the wages and social benefits declared to the Ecuadorian Social Security Institute for each person with disabilities or substitute employee with a spouse, partner or child with disabilities for whom they are responsible, provided they have not been hired to comply with the requirements relating to the minimum number of employees with disabilities, fixed at four per cent under this Act.

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<sup>53</sup> Art. 50 (Recruitment methods): “Public and private institutions are required to adapt their recruitment needs and methods to further the participation of persons with disabilities, in keeping with gender equity and disability diversity. Vocational training services and other training entities must include persons with disabilities in their regular training programmes. The national authority responsible for labour relations shall guarantee and promote the inclusion in the workforce of persons with disabilities.”

<sup>54</sup> Art. 51 (Stability of employment): “Persons with disabilities, deficiencies or disabling conditions shall enjoy special stability of employment. In the case of unfair dismissal, a person with disabilities or responsible for maintaining a person with disabilities shall be entitled to compensation equivalent to eighteen (18) months of his or her highest remuneration, in addition to any appropriate legal compensation. Persons who acquire a disability in the course of employment, whether by chance or as the result of a work-related disease, shall be entitled to rehabilitation, readjustment, training, relocation or reintegration under the Act. Furthermore, persons with disabilities or those caring or responsible for a child, spouse, partner or parent with disabilities, duly certified by the national health authority, shall not be included among those whose posts are considered for abolition.”

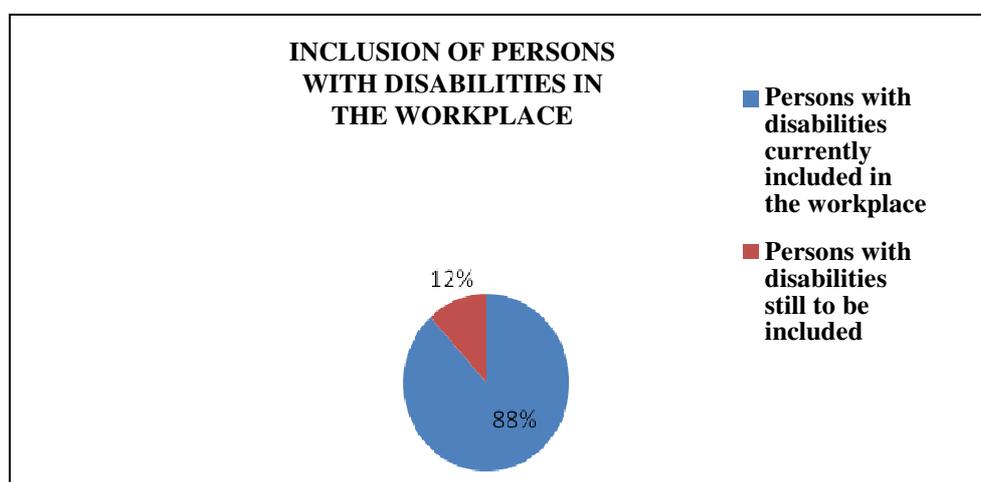
<sup>55</sup> Art. 52 (Right to leave for treatment and rehabilitation): “Under the Act, persons with disabilities in both the public and private sector shall be entitled to leave for treatment and rehabilitation, in accordance with a duly certified medical prescription; as well to emerging leave requirements relating to the individual’s disability status. Maternity leave shall be extended by three (3) additional months in the case of the birth of a child with disabilities or serious congenital disorders. It is not permitted to reduce the salary of a worker with disabilities on account of his or her disability. Civil servants and private sector employees working an eight-hour day who are responsible for persons with duly certified severe disability shall be entitled to two (2) hours daily to care for them, subject to a report by the human resources department.”

28.6 Finally, item 6 of the National Agenda on Disability Equality, on the subject of work, contains a policy and five guidelines, number 3 of which is specifically concerned with guaranteeing inclusion in the workplace of persons with disability. It is to be noted that each guideline of the Agenda is related to the policies and guidelines in the National Plan for Good Living 2013–2017.

**29. What percentage of persons with disabilities of working age are currently employed in Ecuador?**

29.1 Currently, 22,000 firms in Ecuador are required to comply with the disability employment quota under the Organic Act on Disabilities, a requirement entailing the inclusion in the workplace of 89,000 persons with disabilities or their substitutes. The number of persons with disabilities currently employed in Ecuador stands at 78,577 or 88 per cent of the total number of persons with disabilities of working age, as shown below.

Persons with disabilities of working age	89 000
Persons with disabilities currently included in the workplace	78 577
Persons with disabilities still to be included	10 423



*Classification by type of disability*

<i>Hearing</i>	<i>Physical</i>	<i>Intellectual</i>	<i>Speech</i>	<i>Visual</i>	<i>Psychological</i>	<b><i>Overall total</i></b>
11 533	45 159	6 722	1 070	11 957	2 136	<b>78 577</b>

**Classification by gender**

<i>Gender</i>		
<i>Female</i>	<i>Male</i>	<b><i>Total</i></b>
22 702	55 875	<b>78 577</b>

**Classification by territory**

<i>Province</i>	<i>Overall total</i>
AZUAY	6 748
BOLIVAR	971
CAÑAR	1 278
CARCHI	906
CHIMBORAZO	2 174
COTOPAXI	1 982
EL ORO	2 935
ESMERALDAS	2 006
GALAPAGOS	87
GUAYAS	17 352
IMBABURA	2 147
LOJA	2 580
LOS RIOS	2 784
MANABI	8 150
MORONA SANTIAGO	672
NAPO	631
ORELLANA	1 037
PASTAZA	467
PICHINCHA	17 402
SANTA ELENA	1 179
SANTO DOMINGO DE LOS TSACHILAS	1 537
SUCUMBIOS	973
TUNGURAHUA	1 990
ZAMORA CHINCHIPE	589
<b>Overall total</b>	<b>78 577</b>

29.2 Article 85 of the Organic Act on Disabilities provides that persons with disabilities qualify for the special old-age retirement: “Persons with disabilities affiliated to the Ecuadorian Social Security Institute who are credited with three hundred (300) contributions shall be entitled, without limit of age, to a pension equal to 68.75 per cent of the average of the best five contributory years of the basic minimum wage in accordance with the minima, maxima and periodic adjustments determined by the Ecuadorian Social Security Institute. Persons with intellectual disabilities shall be entitled to the retirement pension once they are credited with two hundred and forty (240) contributions.”

29.3 Officials with disabilities in public bodies and agencies who wish to draw their retirement benefits shall be entitled to receive from their employer a single payment equivalent to five times the basic minimum wage for the private-sector worker for each year of service in the same organization, beginning in the fifth year and up to a maximum amount of 150 times the basic minimum wage of the private-sector worker.

29.4 A retiree with a disability who returns to employment shall be entitled to an improved retirement pension on ceasing his or her new employment, subject to having

made a minimum of twelve (12) contributions. In this way, the health and well-being of persons with disabilities is ensured, in accordance with the ages specified in this article.

**30. To what extent do Ecuador's general social programmes include persons with disabilities? Please indicate whether the rights of persons with disabilities are included as a cross-cutting component in the 2009–2013 National Plan for Good Living.**

30.1 Objective 1 in the National Plan for Good Living 2009–2013, entitled “Fostering social and territorial equality, cohesion, and integration in diversity”, envisages a new model of society and the State, in which development constitutes a means of ensuring effective expression of the rights related to good living.

30.2 The National Plan for Good Living 2013–2017 comprises various policies and guidelines that uphold the rights of persons with disabilities and guarantee them an adequate standard of living. Apart from the rights to education and work mentioned previously, the National Agenda on Disability Equality covers issues of accessibility and public awareness, which are important matters addressed in the National Plan for Good Living 2013–2017.

30.3 A key instrument of national planning and public policy formulation, the National Plan for Good Living 2013–2017 sets out a series of interlinked policies and guidelines on disability, inclusion, high-priority groups and equity, which seek to bring about profound sociocultural, political and economic changes for those groups targeted by the Plan:

- **Objective 1:** To consolidate the democratic State and popular empowerment.
- **Objective 2:** To foster social and territorial equality, cohesion, inclusion and equity in diversity.
- **Objective 3:** To improve people's quality of life.
- **Objective 4:** To strengthen the capacities and potential of citizens.
- **Objective 5:** To build fora for social interaction and strengthen national identity, the diversity of identities, multinationalism and interculturalism.
- **Objective 6:** To promote the transformation of justice and strengthen comprehensive security, with strict respect for human rights.
- **Objective 7:** To safeguard the rights of nature and promote sustainability of the national and global environment.
- **Objective 8:** To strengthen a sustainable socio-economic system based on solidarity.
- **Objective 9:** To guarantee the dignity of employment in all its forms.
- **Objective 10:** To further the transformation of the productive matrix.
- **Objective 11:** To ensure the sovereignty and efficiency of the strategic sectors with a view to industrial and technological change.
- **Objective 12:** To guarantee sovereignty and peace, and promote strategic enmeshment in the world, and Latin American integration.

30.4 It should also be mentioned that the National Agenda on Disability Equality has twelve components and twelve policies:

- **Component 1. Awareness raising – Policy:** Promoting recognition of the rights of persons with disabilities, respect for their dignity and appreciation of their worth.

- **Component 2. Participation** – *Policy*: Furthering exercise of the social, civil and political rights and the fundamental liberties of persons with disabilities.
- **Component 3. Prevention** – *Policy*: Promoting measures to prevent disability and encourage early diagnosis and treatment.
- **Component 4. Health** – *Policy*: Furthering the exercise by persons with disabilities of their right to health.
- **Component 5. Education** – *Policy*: Providing persons with disabilities with an inclusive, specialized, quality and caring education and lifelong learning opportunities.
- **Component 6. Work** – *Policy*: Safeguarding and promoting the right of persons with disabilities to work, without discrimination, based on equal employment rights and taking account of the special circumstances of those concerned.
- **Component 7. Accessibility** – *Policy*: Ensuring access by persons with disabilities to the built environment, transport, communication, information and basic goods and services.
- **Component 8. Tourism, culture, arts, sport and recreation** – *Policy*: Promoting access to and enjoyment of tourism, culture, the arts and sport and recreation by persons with disabilities.
- **Component 9. Protection and social security** – *Policy*: Promoting access to protection and social security by persons with disabilities.
- **Component 10. Legislation and justice** – *Policy*: Promoting effective access to justice for persons with disabilities, without discrimination and on equal terms with other people.
- **Component 11. Life free from violence** – *Policy*: Preventing, punishing and eradicating violence against persons with disabilities, members of their families and caregivers.
- **Component 12. Public policy and accountability** – *Policy*: Promoting, guaranteeing and developing equitable institutional structures and public policies for persons with disabilities, together with accountability.

**31. Please indicate whether there are any plans to reform the Constitution to ensure that persons with disabilities enjoy the same level of civil and political rights as others, in particular with regard to exemption from the obligation to vote.**

31.1 Article 47<sup>56</sup> of the Constitution states that the State shall guarantee disability prevention policies and, together with society and the family, shall ensure equal opportunities for persons with disabilities and their social integration.

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<sup>56</sup> Section 6 (Persons with disabilities), art. 47: “The State shall guarantee disability prevention policies and, together with society and the family, shall ensure equal opportunities for persons with disabilities and their social integration. Persons with disabilities are granted the following rights: 1. Specialized treatment in public and private entities providing health services for their specific needs, which shall include the free provision of medicines, especially for those persons that require lifelong treatment. 2. Comprehensive rehabilitation and permanent assistance, which shall include the corresponding technical aids. 3. Discounts for public services and for private transportation services and entertainment. 4. Tax exemptions. 5. Equal opportunity employment that furthers their capabilities and potential through policies that facilitate their integration in public and private entities. 6. Adequate housing, with facilities for access and the necessary conditions for treating their disability and achieving the highest possible degree of autonomy in their everyday life. Reception centres shall

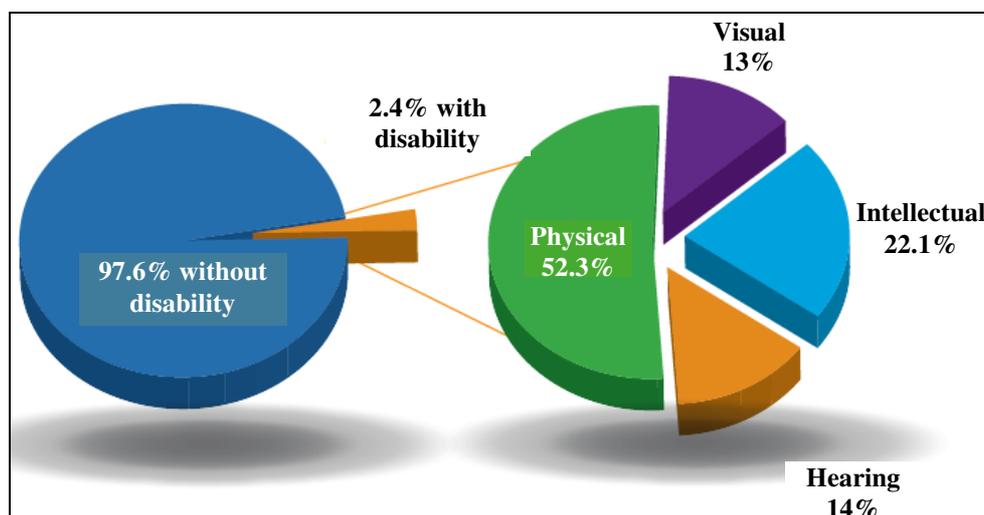
31.2 Article 62 of the Constitution provides that all persons “have the right to equal, direct, secret and publicly scrutinized universal suffrage, in conformity with the following provisions: (1) Voting shall be mandatory for persons over eighteen years of age. Detained persons who have not been convicted and sentenced shall exercise their right to vote. (2) Voting shall be optional for persons between 16 and 18 years of age, elderly persons over 65 years of age, Ecuadorians who live abroad, members of the Armed Forces and National Police Force, and persons with disabilities”.

31.3 Despite this provision making voting for persons with disabilities optional, out of the total number of persons with disabilities registered to vote (304,000 in 2014) 80 per cent of them cast their vote, which is clear evidence of a decision by this group to exercise their right, at the combined prompting of State organizations and civil society. Persons with disabilities turned out in mass to exercise their political right, so that exercise of this right cannot be considered exceptional, voting for them being optional.

31.4 Statistics on persons with disabilities in electoral processes.

### Registration in the electoral process of 27 February 2013

In Ecuador, the number of persons registered to vote was 11,380,725, of whom 2.4 per cent, or 271,000 citizens, had some form of disability.



Carried out by the Project for the Inclusion of Persons with Disabilities.

Source: National Directorate of the Electoral Register.

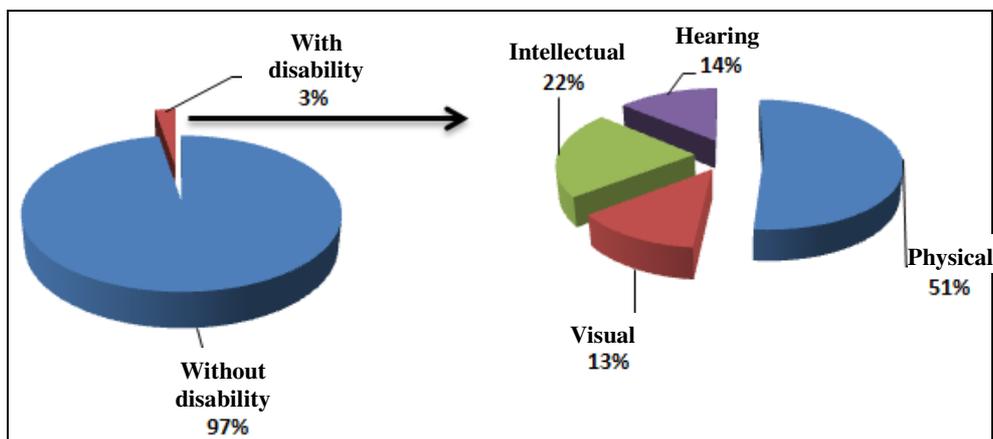
Date: September 2013.

be provided to accommodate persons with disabilities who cannot be cared for by their relatives during the day or who have no permanent place to live. 7. An education that develops their potential and skills for their integration and participation on equal terms. Their education within the regular education system shall be guaranteed. Regular schools shall include differential treatment and special schools shall provide specialized education. Schools shall comply with standards of accessibility for persons with disabilities and shall implement a scholarship system responsive to the economic circumstances of this group. 8. Specialized education for persons with intellectual disabilities and promotion of their capabilities through the creation of specific education centres and teaching programmes. 9. Free psychological care for persons with disabilities and their families, particularly in the case of intellectual disabilities. 10. Adequate access to all goods and services. Architectural obstacles shall be eliminated. 11. Access to alternative communication mechanisms, media and forms, including sign language for deaf persons, oralism and Braille.”

The above statistics show persons with physical disabilities to be in the majority (52.3 per cent), followed by those with intellectual disabilities (22.1 per cent) hearing disabilities (14 per cent) and visual disabilities (13 per cent).

#### Registration in the electoral process of 23 February 2014

In Ecuador, the number of persons registered to vote was 11,389,688, of whom 3 per cent, or 304,108 citizens, had some form of disability.



Carried out by the CONADIS technical team.

Source: National Directorate of the Electoral Register.

Date: June 2014.

As the above statistics show, persons with physical disabilities represent the majority (51 per cent), followed by those with intellectual disabilities (22 per cent), hearing disabilities (14 per cent) and visual disabilities (13 per cent).

31.5 Article 11 of the Constitution states that the following principal shall govern the exercise of individual rights:

“2. All persons are equal and shall enjoy the same rights, duties and opportunities.

No one shall be discriminated against on grounds of ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, legal record, socio-economic condition, migratory status, sexual orientation, health status, HIV carrier status, disability, physical difference or any other distinguishing feature, whether personal or collective, temporary or permanent, which might be aimed at or result in the diminishment or annulment of recognition, enjoyment or exercise of rights. All forms of discrimination are punishable by law.

The State shall adopt affirmative action measures that promote genuine equality for rights-holders in situations of inequality.”

31.6 It does not therefore seem possible for the Constitution of the Republic to be amended in the near future, since it contains guarantees of the rights concerned, including the civil and political rights of persons with disabilities.

31.7 The inter-agency cooperation agreement signed between the National Council on Disability Equality (CONADIS) and the National Electoral Council (CNE) includes a commitment to develop strategic initiatives in three areas:

- Coordination of joint measures to generate knowledge on access to and exercise of the political rights of persons with disabilities;

- Coordinated implementation of plans, programmes and measures to further awareness and observance of the rights of persons with disabilities by political organizations and politicians;
- Coordination of measures to improve the standards of response and training of representatives of political organizations and officials of the National Electoral Council with regard to the rights and duties stipulated in national regulations on disability, using the CONADIS Virtual Platform on Disabilities as a training medium.

31.8 The commitments in this regard are to be found in the provisions of the Constitution of the Republic, the Convention on the Rights of Persons with Disabilities, the Organic Act on Disabilities, the Democracy Code and its regulations, and the Organic Act on Citizen Participation.

31.9 The National Council on Disability Equality, the Citizen Observatories for Monitoring the Rights of Persons with Disabilities in Ecuador and the National Federations of and for Persons with Disabilities, with the participation of the National Council on Childhood and Adolescence, have submitted to the National Electoral Council (CNE) the election observation report drawn up during the local elections of 23 February 2014.

31.10 This most recent election involved the following procedures:

- Assisted voting for persons with disabilities
  - Compliance with article 11 of the Democracy Code on exercise of the right to vote: “the National Electoral Council (...) shall establish the necessary conditions to facilitate exercise of the right to vote for persons with disabilities”; and with article 115 providing that it shall also “regulate the form of voting to be adopted in the case of persons whose disability prevents them from exercising the right to vote”.
  - Provision was made for persons with visual, intellectual and physical disabilities and for all older people.
  - In their observation of the election, the independent national observers reported that assisted voting was available in most of the polling stations visited, particularly for persons with visual and intellectual disabilities and reduced mobility.
- Home voting
  - Home voting took place in 12 provinces of Ecuador (urban and rural sectors): Azuay, Bolívar, Carchi, Chimborazo, Imbabura, Loja, Napo, Santa Elena, Santo Domingo de los Tsáchilas, Tungurahua, Manabí and Morona Santiago; the persons in charge of this service were members of the electoral board (president, secretary and a deputy officer), the security forces (military and police) together with National Electoral Council officials and the independent national observers.
  - The beneficiaries of the home voting service include persons with physical disabilities (70 per cent disability rate or over), catastrophic illnesses and older people.
  - The process was monitored by the independent national observers, according to the reports, and the activity took place at the earlier date of Friday 21 February, a factor that influenced the results of the opinion polls carried out during the local elections of 23 February 2014.

- Electronic voting<sup>57</sup>
  - As part of the process of strengthening and modernizing the voting system, CNE implemented a pilot electronic voting project in the provinces of Azuay, Santo Domingo de los Tsáchilas and La Morita-Pichincha, with the aim of developing a learning process and evaluating its functioning, the voting population's ability to adapt, and the technical and technological infrastructure; and with a view to extending the process nationally in future elections. In this context, the election on 23 February 2014 was the first opportunity to assess some of the inherent advantages of the system and the disadvantages with regard to physical infrastructure, functioning of the teams, logistics, etc.

31.11 Similarly, during the Right to Vote Campaign, a road map was drawn up with the participation of the State and civil society:

- Representing the State: the National Electoral Council (CNE), the Ministry of Labour and the National Council on Disability Equality (CONADIS).
- Representing civil society: the National Federation of Persons with Physical Disabilities (FENEDIF), the Citizen Observatories for Monitoring the Rights of Persons with Disabilities in Ecuador and the organization *Gestión Ecuador*.
- Commitments:
  - CONADIS: Preparation of profiles of campaign beneficiaries and volunteers; profiles of persons with disabilities, profiles of volunteers with vehicles; profiles of persons volunteering to help in ferrying campaign beneficiaries with disabilities and delivering them to the FENEDIF call centre.
  - Ministry of Labour Relations: Provision of support in the form of volunteers from the Citizen Social Service with and without vehicles during the local elections.
  - CNE: Registration of persons with disabilities; provision of volunteers with and without vehicles, via its provincial offices, to accompany them to and from the polling stations.
  - FENEDIF: Coordination of the Right to Vote Campaign; registration at national level of volunteers with and without vehicles and persons with disabilities via its call centre.
  - *Gestión Ecuador*: Media promotion of the campaign.
  - National federations of and for persons with disabilities: Promotion of the design of the campaign logo, and the logos of the participating bodies. Also provided support by convening their branches and/or organizations of and for persons with disabilities.
  - Observatories: Promotion and publicizing of the Right to Vote Campaign through branches at national level by encouraging the registration of persons with disabilities and volunteers with and without vehicles ready to take part in this initiative.

31.12 To ensure effective exercise of the political rights of persons with disabilities, CONADIS also signed an inter-agency agreement with the National Electoral Council

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<sup>57</sup> *Source:* Information supplied by the provincial coordinators of Azuay and Santo Domingo de los Tsáchilas.

in 2013 on the inspection of its premises nationwide. It also provided training and distributed information on INEN Standards on Accessibility to the Built Environment to technicians in the CNE construction and maintenance unit and delivered an expert opinion assessing compliance with accessibility standards in 23 CNE buildings nationwide. A two-year deadline was set for adapting the infrastructure of the buildings concerned, insofar as their structures allowed, in order to improve accessibility.

**32. Please indicate whether Ecuadorian legislation establishes the obligation for museums, cinemas, theatres, sports stadiums and other recreational and cultural centres, including cultural materials and content, to be accessible to persons with disabilities and, if so, indicate the degree of implementation of such legislation.**

32.1 Ecuadorian legislation requires premises to be accessible and promotes activities and programmes for the inclusion of persons with disabilities. The requirement is embodied in the following articles of the Organic Act on Disabilities:

- Chapter 2 (Guiding principles), article 4.8 (Accessibility) guarantees persons with disabilities access to the built environment and to other services and premises open to the public or for public use, in both urban and rural areas, as well as the elimination of obstacles that impede the enjoyment and exercise of rights.
- Article 42 (Right to culture) provides that the State, through the national authority responsible for culture, will guarantee persons with disabilities access to, participation in and enjoyment of cultural, recreational, artistic and leisure activities through the implementation of accessibility mechanisms.
- Article 43 (Right to sport) stipulates that the State, through the national authority responsible for sport and the autonomous decentralized governments, shall promote programmes and activities within their spheres of competence to further the inclusion, integration and safety of persons with disabilities in sports activities through accessibility mechanisms and technical, human and financial support at national and international level.

32.2 The obligation for museums, cinemas, theatres, sports stadiums and other recreational and cultural centres to be accessible to persons with disabilities is not stated explicitly in any legislative or regulatory document, although the regulations governing the accessibility of persons with disabilities and reduced mobility to the built environment establish parameters and requirements to be met in any premises accessed and used by the public.

32.3 It should also be noted that isolated efforts have been made by various cinemas, places of entertainment and certain museums to make reasonable physical, human and technological modifications in terms of accessibility, which have improved access for persons with disabilities.

32.4 In the field of sport, much still remains to be done, although some progress has been made by the relevant bodies. Exhibitions and projects to increase public awareness have been organized, such as the “Exhibition on Access to Art” and the “Bici Inclusiva” (Bicycles for All) initiative. Based on new standards of accessibility for all, public bodies such as the Ministry of Sport have already made it a requirement for the necessary adjustments to be made to ensure accessibility in premises undergoing renovation. There has also been agreement on joint work to develop training schemes and require compliance with accessibility standards in future new constructions.

32.5 The National Council on Disability Equality, in coordination with the national authority responsible for culture, will formulate public policies aimed at promoting programmes and activities to ensure the rights of persons with disabilities.

32.6 Concerning the degree of implementation of such legislation, the Ministry of Culture is undertaking activities at provincial and local level entailing a minimum level of participation by the community with disabilities. As a strategy to maximise its participation and involvement, the Ministry is working on the allocation of competitive funding for local, provincial and national projects, the granting of scholarships and the organization of cultural festivals, craft fairs and artistic competitions.<sup>58</sup>

**33. Please provide detailed information on the nature of the implementation mechanism and the independent monitoring mechanism created by the State party in accordance with article 33 of the Convention (paragraph 566 of the State party's initial report).**

33.1 The independent monitoring mechanism created by the State to protect the rights of persons with disabilities is established under the Constitution and the Organic Act on the Council for Citizen Participation and Social Control, through observatories, monitoring bodies and other entities.

33.2 Article 100 of the Constitution of Ecuador provides: "At every level of government, participatory bodies shall be established, consisting of elected representatives of the governor's office and society in the territorial jurisdiction of the relevant level of government, which shall be governed by democratic principles. Participation in these entities shall be exercised in order to:

- Formulate national, local and sectoral plans and policies with the agreement of administrations and citizens;
- Improve the quality of public investment and set development agendas;
- Prepare administrations' participatory budgets;
- Strengthen democracy by means of permanent transparency, accountability and social control mechanisms;
- Promote citizen participation and improve communication processes;
- To implement this participation, public hearings, oversight committees, assemblies, grass-roots lobbying, consultative councils, observatories and other entities that promote civic-mindedness shall be organized."

33.3 Article 8 of the Act on the Council for Citizen Participation and Social Control establishes that: "The powers of the Council for Citizen Participation and Social Control are the following:

- To promote and stimulate initiatives for social control over the implementation of public policies in fulfilment of the rights established in the Constitution, and over the public-sector bodies and private-sector individuals or legal entities providing public services, managing public resources or performing activities in the public interest.
- To provide technical and methodological support through monitoring initiatives, observatories and other forms of social control, as required, with the aim of ensuring management accountability in the public domain, in the framework of constitutional rights.
- To make provision for citizen mechanisms to monitor the public policy cycle, with particular emphasis on the planning, budgeting and implementation of public spending; the implementation of plans, programmes, projects, works and public services; and the activities of public officials in general. If the monitoring report

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<sup>58</sup> National Council on Disability Equality, National Agenda on Disability Equality 2013–2017, p. 67.

reveals evidence of guilt, the Council is required to send a copy of the document to the relevant authority, which must receive and examine it.

- To act as a link between the State and its citizens in proceedings based on public initiatives and call for the requests and complaints of citizens to be heeded.
- Request the National Electoral Council to pay due regard to the petitions submitted by citizens requesting the removal from office of authorities appointed by popular vote and the holding of a referendum in accordance with the provisions of the Constitution.”

33.4 The National Citizen Observatory on Respect for the Rights of Persons with Disabilities in Ecuador is being established as a non-profit, private-law body governed by the provisions of the Constitution, the United Nations Convention on the Rights of Persons with Disabilities and Its Optional Protocol, the Act on the Council for Citizen Participation and Social Control, the Freedom of Information Act, the Organic Act on Disabilities and other related provisions.

33.5 The National Citizen Observatory on Respect for the Rights of Persons with Disabilities in Ecuador has the following aims:

- To promote solidarity, cooperation, inclusion and civic participation as regards persons with disabilities, with particular reference to issues of accessibility, health, education, housing, mobility, transport, work, communication, sport, recreation and legal security; and to ensure public transparency in the implementation of these activities at all levels of authority and in all publicly financed undertakings;
- To promote, expand and enforce the application of the rights of persons with disabilities in Ecuador, in coordination with the relevant Secretary of State;
- To take measures to promote awareness and exercise of the rights of persons with disabilities and enforcement mechanisms;
- To develop communication and promotion campaigns for the realization of its objectives, employing all forms of communication;
- To monitor and exercise social control over management practices and attitudes of exclusion and discrimination towards persons with disabilities in public and private entities providing services or care for the population with disabilities, with particular reference to issues of accessibility, health, education, housing, mobility, transport, work, communication, sport, recreation, civic participation and legal security;
- To ensure that management of the Citizen Observatory is based on the principles of solidarity, democratization, confidentiality, autonomy, transparency, equality, responsibility, efficiency and legality and on the provisions as a whole of article 3 of the Convention on the Rights of Persons with Disabilities and its Optional Protocol;
- To support the initiatives and programmes of organized groups, institutions, enterprises and natural or legal persons in the public or private sector relating to the defence of the rights of persons with disabilities;
- To strengthen processes of citizen participation and awareness in the framing and application of public and legal policies relating to the topic of disability.

33.6 The National Citizen Observatory, comprising three regional citizen observatories, will have jurisdiction and competence in the following provinces: Regional Observatory 1, with its headquarters in the city of Quito and covering the provinces of Carchi, Imbabura, Pichincha, Cotopaxi, Tungurahua, Esmeraldas, Sucumbíos and Orellana; Regional Observatory 2, with its headquarters in the city of Guayaquil and covering the provinces of Guayas, Santa Elena, Santo Domingo, Los Ríos, Chimborazo, Bolívar and Manabí; and Regional Observatory 3, with its headquarters in the city of Cuenca and covering the provinces of Azuay, Loja, El Oro, Zamora Chinchipe, Cañar and Morona Santiago. Its aim will be to promote respect, enforceability, realization and exercise of the rights of persons with disabilities and their families so as to ensure their full inclusion and, within its sphere of competence, bring together persons with disabilities and their families as members of a community, promoting respect, monitoring and observance of their rights, encouraging solidarity, cooperation, inclusion, integration and full participation by persons with disabilities, nurturing a sense of community and furthering the goal of good living.

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